



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: CWA - 215937

PRELIMINARY RECITALS

Pursuant to a petition filed on November 13, 2024, under Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee Enrollment Services regarding Medical Assistance (MA), a hearing was held on December 19, 2024, by telephone.

The issue for determination is whether the agency correctly determined Petitioner's enrollment date into community waivers.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703
By: Princeton Perry
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:
Nicole Bjork
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Waukesha County.

2. On August 27, 2024, Petitioner applied for MA.
3. On September 12, 2024, the agency received verification of assets from Petitioner, including a bank statement from May 31, 2024, showing that Petitioner had \$5249.37, which is over the asset limit of \$2000. As a result, the application was initially denied for being over the asset limit. However, the May 31, 2024, bank statement should not have been used since it was more than 30 days old.
4. On October 3, 2024, the agency received documents showing current assets and that assets were below the asset limit. Thus, assets were first verified on October 3, 2024 and the agency began to process the MA application again.
5. On October 4, 2024, the agency sent a request to Petitioner for verification of a valid signature, gross amount of veteran benefits, medical expenses and premiums. Of note, the agency already had a valid signature and verification of benefits, so those items should not have been included in the request. However, the case still required verification of medical expenses and premiums and without them, the application could not have been approved at this point.
6. On November 5, 2024, the agency received the signature and medical premium verifications. This was the date that the agency had finally received all of the information necessary to approve. At that point, the case pended for enrollment into community waivers.
7. On November 15, 2024, Petitioner was enrolled into the community waivers program.
8. Petitioner's guardian, ■■■, filed an appeal on her behalf. ■■■ testified that she didn't realize that there would be verification requests after she applied for benefits for Petitioner. She did not realize how long the process would take and she is seeking backdated coverage for Petitioner.

DISCUSSION

The Include, Respect, I Self-Direct (IRIS) program is a Medical Assistance long term care waiver program that serves elderly individuals and adults with physical and developmental disabilities. IRIS is an alternative to Family Care, Partnership, and PACE—all of which are managed long term care waiver programs. The IRIS program, in contrast, is designed to allow participants to direct their own care and to hire and direct their own workers. The broad purpose of all of these programs, including IRIS, is to help participants design and implement home and community based services as an alternative to institutional care. See IRIS Policy Manual §1.1B, Medicaid Eligibility Handbook §28.1, et. seq. and 42 C.F.R. §441.300, et. seq.

The IRIS waiver application most recently approved by the Centers for Medicare and Medicaid Services (CMS) is available on-line at <https://www.dhs.wisconsin.gov/iris/hcbw.pdf> . See Application for 1915(c) HCBS Waiver: WI.0484.R03.00 - Jan 01, 2021. State policies governing administration of the IRIS program are included in the IRIS Policy Manual (available at <http://www.dhs.wisconsin.gov/publications/P0/P00708.pdf>), IRIS Work Instructions (available at <http://www.dhs.wisconsin.gov/publications/P0/P00708a.pdf>), and IRIS Service Definition Manual (available at <https://www.dhs.wisconsin.gov/publications/p00708b.pdf>).

In this case, Petitioner first applied on August 27, 2024. However, the application was missing required verification of assets, medical expenses, and premiums. Petitioner's representative first sent a bank statement from May 2024 to verify Petitioner's assets. This statement put Petitioner over the asset limit

but was ultimately not used as it was too old to be considered anyway. By the time the agency received correct verification of assets, it was October 3, 2024. However, the application was still missing verification of medical expenses and premiums. This information was not received until November 5, 2024. Petitioner was then enrolled November 15, 2024. She could not have been enrolled prior to that time because financial verification is a required component of application approval. Financial verification was not achieved until November 5, 2024.

Petitioner is seeking backdated coverage of IRIS benefits. Petitioner's guardian testified that she did not realize the application process would take so long and that verification of so many things would be required. She believes that this should be better explained to people that are applying. However, per IRIS Policy 5.5B Enrollment Date, the IRIS program prohibits the payment of providers or participant-hired workers prior to the enrollment date. Thus, there is no policy or provision that allows for IRIS benefits to be backdated under these circumstances.

The administrative law judges in the Division of Hearings and Appeals must comply with established rules and regulations. We do not have the authority to create exceptions or to disregard that rule in the interests of fairness or equity. It is the long-standing policy of the Division of Hearings & Appeals that administrative law judges do not possess equitable powers. *See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann*, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. Under the rules noted above, financial verification is required in order to be enrolled IRIS. Financial verification was not established until November 5, 2024. Therefore, she could not be enrolled in IRIS. No regulation or rule allows for IRIS to backdate coverage.

CONCLUSIONS OF LAW

No regulation or rule allows for IRIS to backdate coverage and the Division of Hearings and Appeals has no equitable authority to backdate the coverage.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 4822 Madison Yards Way, 5th Floor North, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

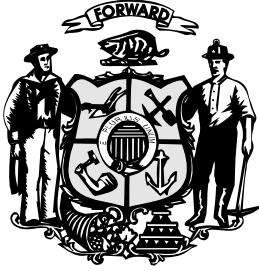
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 31st day of January, 2025

\s _____
Nicole Bjork
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 31, 2025.

Milwaukee Enrollment Services
Bureau of Long-Term Support