



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

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

**DECISION**  
Case #: CWA - 216047

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on November 20, 2024, under Wis. Admin. Code § HA 3.03, to review a decision by the Outagamie County Department of Human Services regarding Medical Assistance (MA), a hearing was held on January 2, 2025, by telephone.

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

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: Sydney Maertz

Outagamie County Department of Human Services  
320 S Walnut St  
Appleton, WI 54911-5985

**ADMINISTRATIVE LAW JUDGE:**

Nicole Bjork  
Division of Hearings and Appeals

**FINDINGS OF FACT**

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

2. On September 4, 2024, the agency received an application for MA from Petitioner.
3. On September 24, 2024, the agency sent a notice to Petitioner requesting verification of a savings account ending in [REDACTED], verification of CDs, and verification of VA Aid and Attendance amount. The notice stated that this verification was due by October 14, 2024.
4. On September 27, 2024, the agency received the requested verification of VA Aid and attendance.
5. On October 1, 2024, the agency received the requested verification of the savings account.
6. On October 3, 2024, the agency received the requested verification of the CDs.
7. On October 14, 2024, the agency contacted the ADRC for an enrollment date. This is the date that the respondent was deemed functionally and financially eligible.
8. On October 31, 2024, the ADRC notified the agency of the enrollment date as November 1, 2024. Petitioner was enrolled in MA as of this date.
9. Petitioner's daughter filed an appeal on Petitioner's behalf. She testified during the hearing that no one ever told her that if everything wasn't received by October 1<sup>st</sup>, it would push the enrollment out to November 1<sup>st</sup>. She felt that there was not enough communication during the process and further stated that her mother cannot afford this. She would like enrollment to be effective October 1, 2024.

## 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 September 4, 2024. However, the application was missing required verifications. See Finding of Fact #3. The last verification requirement was received and processed on October 14, 2024. That was the date that the respondent was financially and functionally eligible. She could not have been enrolled prior to that time because financial verification is a required component of application approval. Once the application was approved, the agency contacted the ADRC for an enrollment date and Petitioner was enrolled effective November 1, 2024.

Petitioner is seeking backdated coverage of IRIS benefits to October 1, 2024. Petitioner's daughter testified that she did not realize that the lack of verification would push the enrollment date out. She believes that this should be better explained to people that are applying. Petitioner's daughter seemed to assume that applying on September 1, 2024, meant a guaranteed enrollment date of October 1, 2024. In reality, an applicant cannot be approved until they are determined to be both financially and functionally eligible. Further, there is no provision that would allow for backdated coverage. 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.

I understand the November 1, 2024 enrollment date creates a hardship for Petitioner. However, I have no power or authority to make an exception in this case or to disregard the rules. 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, 5<sup>th</sup> 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**

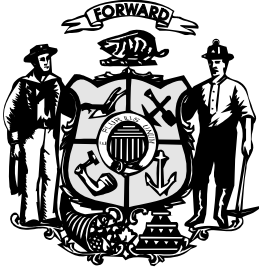
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 3rd day of February, 2025

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



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on February 3, 2025.

Outagamie County Department of Human Services  
Bureau of Long-Term Support