



FH

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

In the Matter of

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

DECISION

Case #: CWA - 216117

PRELIMINARY RECITALS

Pursuant to a petition filed on December 1, 2024, under Wis. Admin. Code § HA 3.03, to review a decision by the Bureau of Long-Term Support, Department of Health Services (the agency) regarding Medical Assistance (MA), a hearing was held on January 16, 2025, by telephone.

The issue for determination is whether the petitioner is eligible to have his IRIS benefits backdated from October 21, 2024, to October 1, 2024.

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: Kristina Treesh, ESS and Theresa Summerfeldt, IRIS Financial Elig. Spec.
Bureau of Long-Term Support
PO Box 7851
Madison, WI 53707-7851

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Washington County. He is enrolled in the IRIS program. His IRIS consultant agency is TMG.
2. On August 12, 2024, the Income Maintenance (IM) agency issued a notice to the petitioner stating that he needed to complete a renewal to keep getting his MA benefits. It further apprised that if he did not act by September 17, 2024, his MA could end on September 30, 2024 or he could have a gap or delay in coverage.
3. On September 2, 2024 a Wisconsin Long-Term Care Program Disenrollment Notice was issued to the petitioner by the Division of Medicaid Services (DMS). The notice stated that his long-term care program enrollment "has ended or is scheduled to end due to No Medicaid Eligibility." The notice directed that the petitioner's IRIS enrollment had ended or is scheduled to end on September 30, 2024. -It also directed that he call his agency if he had any questions about why enrollment was ending. TMG was listed as his agency, and a telephone number for the agency was provided. The notice also indicated he will receive a separate notice that explains why the benefits are ending and how he can ask for a fair hearing if he does not agree with the decision.
4. On September 11, 2024 petitioner's IRIS Consultant discussed the MA renewal coming due at an in-person visit. A Case Note created by TMG dated September 11, 2024, provides the following: IC informed [REDACTED] of the need for [REDACTED] to complete his MA renewal.
5. On September 18, 2024 the IM agency issued a notice to petitioner advising that his MA/Community Waivers was ending October 1, 2024 due to not completing his renewal. It further directs that if he had not started his renewal and wants to keep getting this benefit, to contact his agency before his benefits end. The notice also informs of the right and process to request a fair hearing if he believed there was a wrong decision about his application or benefits. The deadline set forth in the notice to request a hearing regarding Health Care was indicated to be November 18, 2024. He was also informed that if he is already getting benefits and asks for a hearing before his benefits change, he can keep getting the same benefits until the hearing officer makes a decision.
6. On September 18, 2024 the IM agency received petitioner's renewal, but it was missing a required signature.
7. On September 20, 2024 the IM agency issued a request for verification which included a request for petitioner's signature, his wife's employment income and his pension. The verification was due September 30, 2024.
8. On September 21, 2024 a Wisconsin Long-Term Care Program Disenrollment Notice was issued to the petitioner by the Division of Medicaid Services (DMS). The notice stated that his long-term care program enrollment "has ended or is scheduled to end due to No Medicaid Eligibility." The notice directed that the petitioner's IRIS enrollment had ended or is scheduled to end on September 30, 2024. -It also directed that he call his agency if he had any questions about why enrollment was ending. TMG was listed as his agency, and a telephone number for the agency was provided. The notice also indicated he will receive a separate notice that explains why the benefits are ending and how he can ask for a fair hearing if he does not agree with the decision.
9. On October 6, 2024 a Wisconsin Long-Term Care Program Disenrollment Notice was issued to the petitioner by the Division of Medicaid Services (DMS). The notice stated that his long-term care program enrollment "has ended or is scheduled to end due to No Medicaid Eligibility." The notice

directed that the petitioner's IRIS enrollment had ended or is scheduled to end on September 30, 2024. -It also directed that he call his agency if he had any questions about why enrollment was ending. TMG was listed as his agency, and a telephone number for the agency was provided. The notice also indicated he will receive a separate notice that explains why the benefits are ending and how he can ask for a fair hearing if he does not agree with the decision.

10. On October 7, 2024 the IM agency received petitioner's verification of his wife's employment income and his pension, but it was missing a required signature.
11. On October 9, 2024 petitioner's spouse called the IM agency to report employment information. A required signature was also discussed during the call.
12. On October 10, 2024 petitioner's spouse called the IM agency and discussed issues with IRIS payments. The IM agency completed a telephonic signature with petitioner during the call and confirmed MA open that same day.
13. On October 11, 2024 the IM agency issued a notice to petitioner advising that his renewal was completed and his MA/Community Waivers was open effective October 1, 2024.
14. On October 15, 2024 TMG received a referral for the IRIS program and processed it via expedited re-enrollment with a new enrollment date of October 21, 2024.
15. Petitioner had a gap in IRIS enrollment from October 1, 2024-October 20, 2024.
16. On December 1, 2024, the petitioner filed an Appeal with the Division of Hearings and Appeals.

DISCUSSION

The petitioner was enrolled in IRIS. Upon submitting his appeal, the Division of Hearings and Appeals opened two case files: CWA-216117 and MGE-216118. The hearing held on January 16, 2025, addressed both files. The case name for 216118 was changed after the hearing from petitioner's spouse's name to petitioner's name to correct that error in processing. The instant decision (CWA-216117) will address the petitioner's IRIS benefits. A separate decision will be issued in MGE-216118 addressing the petitioner's MA benefits.

The IRIS program was developed pursuant to an MA waiver obtained by the State of Wisconsin, pursuant to section 1915(c) of the Social Security Act. It is a self-directed personal care program. The federal government has promulgated 42 C.F.R. § 441.300 - .310 to provide general guidance for this program.

The regulations require that the Department of Health Services' agent must assess the participant's needs and preferences (including health status) as a condition of IRIS participation. Id., § 441.301(c)(2). The Department's agent must also develop a service plan based on the assessed needs. The broad purpose of 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, available online at <https://www.dhs.wisconsin.gov/publications/p0/p00708.pdf>. The IRIS waiver application (*IRIS Waiver*) 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>. State policies governing administration of the IRIS program are included in the *IRIS Policy Manual*, *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>). The *Medicaid Eligibility Handbook (MEH)* explains how Adult Home and Community-Based Waivers work amongst the various

waiver subprograms. See *MEH*, § 28.1, available online at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm#t=home.htm>.

To participate in the IRIS program, individuals must be 18 years of age or older, meet the nursing home level of care, and meet the financial and non-financial eligibility criteria for one of the following: a full-benefit category of Elderly Blind or Disabled (EBD) MA, BadgerCare Plus, Wisconsin Well Woman Medicaid, Adoption Assistance or Foster Care Medicaid. See *MEH* § 28.1.5. As part of determining ongoing eligibility, all IRIS participants must complete an annual functional and financial eligibility review. Failure to maintain that eligibility may result in disenrollment. See *IRIS Policy Manual*, § 2.0 (<https://www.dhs.wisconsin.gov/publications/p03515.pdf>). The agency has the right to disenroll members from IRIS for losing their financial eligibility. See *IRIS Waiver*, pp. 50 and 202; *IRIS Work Instructions*, Ch. 7 (<https://www.dhs.wisconsin.gov/publications/p03515.pdf>).

In this case, the petitioner's MA, and therefore his IRIS eligibility, ended at the end of September 2024 for failing to timely complete his annual review. The agency presented evidence to show that petitioner was repeatedly notified by way of written notices of the need to complete the renewal or his MA and IRIS eligibility would end. Case notes reflect that the IRIS agency had reminded him of the renewal coming due and that multiple notices were sent advising of the need to complete the renewal or benefits could end. It was undisputed that he submitted his renewal after September 17 (actually on September 18) and that a signature was required and requested. That signature was not provided until October 10. Under the agency's IRIS policy, if a renewal is completed within 30 days of closure, it can be processed as an "expedited re-enrollment", which occurred.

The agency can backdate MA eligibility under separate MA policy, and that was done. See DHA Case No. MGE-216118; see also *MEH* §§ 2.8.2, 3.1.6, and 3.1.6.2. The IRIS program's policy is different, however. The IRIS program prohibits the payment of providers and/or participant-hired workers prior to the enrollment date. See *IRIS Policy Manual*, § 2.0 (<https://www.dhs.wisconsin.gov/publications/p03515.pdf>). The record demonstrates that he received adequate and timely notice regarding the need to complete the renewal and the resulting termination of health care benefits if he failed to do so. The evidence also demonstrates that he was advised that if he wanted his benefits to continue, he had to ask for a hearing before his benefits changed.

Petitioner did not allege that he was unaware of the renewal requirement or that any agency error occurred which caused an unreasonable delay in his enrollment. Rather, his wife testified that she believed she had provided all the requested verification by the due dates, with the exception of the signature. She also testified that it was overwhelming at that time with all of the notices they received.

While I understand her position, I can find no agency error here which caused an unreasonable delay in his enrollment. See DHA Final Decision, Case No. CWA-212475 (dated 1/15/25). The agency requires a valid signature for renewals and properly requested it be provided. See *MEH* § 3.1.4. It was not provided until after the IRIS disenrollment at the end of September. I do not have the authority to order the IRIS agency to honor policies not associated with its own program. I also do not have the authority to change the outcome based on fairness. It is the long-standing position of the Division of Hearings & Appeals that the Division's hearing examiners lack the authority to render a decision on equitable arguments. 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.

CONCLUSIONS OF LAW

1. The IRIS program correctly disenrolled petitioner on October 1, 2024 due to losing financial eligibility by not completing his MA renewal timely.
2. The petitioner's IRIS enrollment cannot be backdated as no agency error caused the delay in his IRIS enrollment.

THEREFORE, it is

ORDERED

The petition for review herein 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 11th day of February, 2025

\s _____
Kelly Cochrane
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 February 11, 2025.

Bureau of Long-Term Support