



FH

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

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**

Case #: CWA - 216141

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed on December 3, 2024, under Wis. Admin. Code § HA 3.03, to review a decision by the Bureau of Long-Term Support regarding Medical Assistance (MA), a hearing was held on January 16, 2025, by telephone.

The issue for determination is whether the IRIS agency correctly seeks to disenroll petitioner from the IRIS program due to petitioner's failure to utilize IRIS funding (not spending funds in the budget).

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, WI 53703

By: Monica Steren, TMG  
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 Waukesha County. She has been enrolled in the IRIS program.

2. Petitioner's diagnoses include Diabetes, Abnormal Liver Function Tests/Fatty Liver Disease, Esophageal Reflux/Dysphagia, Vitamin D Deficiency, Hyperlipidemia, Hyperglycemia, Obesity, Chest Pain, Cardiovascular Disease, Tachycardia, POTS, Raynaud Phenomenon, Hypertension, Psoriatic Arthropathy/Arthritis, Medial Epicondylitis/Hip Pain/TMJ, Tendonitis, Migraines, Fibromyalgia, Groin Pain-R Lower Quadrant, R Upper Quadrant Abdominal Pain, Hand Pain, Neck Pain, Neuralgia, cervical radiculopathy, Degeneration of Cervical Intervertebral Disc, Neuralgia Spondylosis, Restless Leg Syndrome, Dysautonomia, Cerebrovascular Disease, Meningioma, Obstructive Sleep Apnea, Asthma, history of Abnormal Cervical Pap Smear, PTSD, Major Depressive Disorder, Melanoma in Situ, Acne, Dysplastic Nevus/Psoriasis, Sicca Syndrome, Alcohol abuse in remission, Insomnia/Superior Labral Tear/Vocal Cord Dysfunction/Dizziness, and Gastroparesis.
3. Petitioner requires supervision for 6 Activities of Daily Living (ADLs) including bathing, dressing, mobility in home, toileting, and transferring as well as cares for 3 Instrumental Activities of Daily Living (iADLs) including meal preparation, medication administration, and laundry/chores. She also requires assistance with overnight cares.
4. Petitioner's Individual Support and Services Plan (ISSP) for plan year 02/01/2024 – 01/31/2025 shows a total annual budget amount of \$66,132.06 divided among mileage reimbursement, Supportive Home Care (SHC), and a health club membership.
5. In December 2023, initial discussions were held between petitioner and her IRIS Consultant (IC) regarding her lack of spending from her IRIS budget. Petitioner's IC informed petitioner that continued non-spending could result in her disenrollment from the IRIS program.
6. In February, April, May, and August 2024 petitioner's IC continued to discuss petitioner's non-spending with the petitioner.
7. On May 24, 2024, a Risk Agreement (RA) was emailed to petitioner. That RA was subsequently updated in June 2024 and the IC signed it on December 12, 2024.
8. On November 22, 2024, petitioner was sent a Notice of Action stating she is being disenrolled from the IRIS program effective December 7, 2024, because "You have not spent any IRIS funding since June 2024. Your IRIS Consultant has attempted to educate you on the importance of using your budget to obtain services that ensure your health and safety. Because you have chosen not to spend IRIS funding, you will be disenrolled from the IRIS program."

## DISCUSSION

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 (*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>.

The program seeks to end the petitioner's IRIS enrollment. The *Waiver* states that the following are reasons a participant may be involuntarily disenrolled from IRIS:

1. Failure to utilize IRIS funding (not spending funds in the budget);
2. Loss of financial eligibility, including falling into cost share arrears;
3. Loss of functional eligibility, including expiration of long-term care functional screen;
4. Mismanagement of Budget Authority responsibilities (misappropriation of funds);
5. Mismanagement of Employer Authority responsibilities;
6. Unable to contact for an extended period of time;
7. Health and safety cannot be assured;
8. Substantiated fraud;
9. Movement to an ineligible living setting; and
10. Material noncompliance with IRIS program requirements outside of reasons above.

*Waiver*, p. 202.

The agency contends that it is seeking disenrollment because petitioner has failed to utilize IRIS funding for over four months after discussions were had about potential disenrollment for failing to use IRIS funds and the RA occurred. The IRIS policy on such disenrollment states:

Program requested disenrollments are involuntary and occur as the result of a participant's failure to meet programmatic requirements, failure to perform responsibilities of self-direction, or as result of general program noncompliance. In an attempt to prevent program requested disenrollments and to ensure successful program participation, the ICA reviews participant education materials with the participant at enrollment, annually, and as needed. Specific reasons for program requested disenrollment and their definitions are provided below.

ICAs are responsible for recommending program requested disenrollments when a reason for disenrollment is identified and applicable remediation attempts have not resolved the issue. For any program requested disenrollment identified, ICAs must complete the IRIS Involuntary Disenrollment Request form (F-01319) and submit it to the Department quality assurance staff for review and approval. Once the Department approves the request, the ICA issues the NOA and the appeal rights to the participant. The ICA must also communicate the approved disenrollment with the ADRC or Tribal ADRS and IM agency utilizing the Program Requested Disenrollment form (F-02403). The reasons for program requested disenrollment, their definitions, and any required remediation include the following:

- i. Failure to Utilize IRIS Funding Often referred to as "No Spend," the ICA selects this when a participant fails to utilize their Individual Budget Allocation (IBA) for four or more consecutive months of continuous enrollment. This includes things such as not submitting claims or timesheets. 1. Remediation/Documentation Required: The ICA must provide an explanation as

to why the participant is not utilizing their IBA and the efforts they made to assist the participant.

See *Program Enrollment Policy* (P-03547), available online at <https://www.dhs.wisconsin.gov/publications/p03547.pdf>.

The IRIS program bestows considerable independence on its recipients. But the program and its workers have a duty to supervise those within the program to ensure their safety as well as the financial accountability for the program itself.

The IRIS agency presented evidence to show that petitioner had been warned and counseled since at least December 2023 about her failure to utilize the funds from her IRIS budget. There was evidence showing that the last time a service was billed was in June 2024. Prior to June 2024, the evidence showed no billing of IRIS funds after October 2023.

Petitioner testified to issues with getting the background check for one caregiver, billing issues with EVV versus paper timesheets with another caregiver, illness, problems with billing and iLife, and difficulties getting other qualified caregivers to care for her. She also testified that one caregiver provided cares but did not bill so as to limit the caregiver's income. Aside from the latter reason, the agency's Case Notes reflect that petitioner discussed the issues (in the former sentence) with her IC since the issue was raised in December 2023.

The IRIS program has given the petitioner multiple opportunities to mitigate the issues with petitioner's utilization of IRIS funds. There was no blame or fault cast upon this petitioner, but rather, the agency is under legal obligation to ensure her health and safety and the financial accountability for the program. It has met its burden to show that it cannot under these facts. The last billing occurred 4 months prior to the disenrollment notice and the agency is authorized to disenroll for failure to utilize IRIS funding. There is no evidence that any attempt to use IRIS funds was made after the June 15, 2024 \$34.78 payment to one of her caregivers. If petitioner submitted claims or timesheets after that date, there is no evidence of it in this record. Therefore, the program correctly seeks to end her enrollment in the IRIS program. The petitioner may still reapply for this program or another MA program.

### **CONCLUSIONS OF LAW**

The IRIS program correctly seeks to disenroll petitioner from the program for failing to utilize IRIS funds.

**THEREFORE, it is**

**ORDERED**

The petitioner's 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.

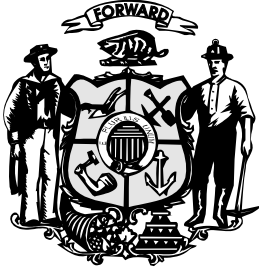
## APPEAL TO COURT

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 13th day of February, 2025

\s \_\_\_\_\_  
Kelly Cochrane  
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 13, 2025.

Bureau of Long-Term Support