



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION

Case #: CWA - 216647

PRELIMINARY RECITALS

Pursuant to a petition filed January 14, 2025, under Wis. Admin. Code, §HA 3.03, to review a decision by TMG to disenroll petitioner from the Include, Respect, I Self-Direct (IRIS) program, a hearing was held on February 12, 2025, by telephone.

The issue for determination is whether the agency correctly determined that petitioner's health and safety could not be assured.

PARTIES IN INTEREST:

Petitioner:

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

Respondent:

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

By: Monica Steren
TMG
2424 Rimrock Rd., Suite 230
Fitchburg, WI 53713

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 56-year-old resident of Milwaukee County.

2. Petitioner has a number of diagnoses including diabetes, traumatic brain injury, schizophrenia, psychosis, and chronic pain. She is eligible for IRIS with TMG as the consulting agency. She started with IRIS June 13, 2024.
3. Petitioner's primary, and currently only, caretaker is her daughter [REDACTED], with whom petitioner lives. Petitioner's IRIS services include routine and companionship supportive home care (SHC), as well as mileage reimbursement. She also receives self-directed personal care through a different funding source. [REDACTED] regularly reports working over 80 hours per week as petitioner's caregiver.
4. In August, 2024, petitioner went to Adult Protective Services (APS) and reported that she did not feel safe with [REDACTED]. She then went to the [REDACTED] until August 19. [REDACTED] submitted payment claims for the time that petitioner was in the shelter.
5. Petitioner left the home again between August 28 and September 1 before being located by police and returned to [REDACTED]'s home. On September 14 petitioner went to an emergency room and requested housing. She was returned to [REDACTED] the same evening. [REDACTED] did not report either incident to TMG.
6. On October 30, 2024, TMG presented a Risk Agreement to [REDACTED]. It was noted that [REDACTED] needed to report incidents when petitioner leaves the home and reports abuse, and it recommended that [REDACTED] hire additional caregiver and perhaps hire an agency to oversee care. [REDACTED] signed the agreement on November 26, 2024. The agency also gave [REDACTED] a Conflict of Interest form, concerned that [REDACTED] was billing for time that petitioner was not being cared for by her. [REDACTED] also signed that form on November 26.
7. On January 6, 2025, petitioner's TMG consultant was informed by APS that petitioner was at the [REDACTED] shelter since December 23, 2024, and that petitioner reported being abused by [REDACTED] and her boyfriend (actually [REDACTED] is married). APS reported that petitioner had bruises on her legs. [REDACTED] went to the shelter on January 6 to pick petitioner up, but staff refused to release her at that time. Notably, [REDACTED] had not reported to TMG that petitioner was out of the home, and she submitted time sheets for SHC hours during that time.
8. By a notice dated January 10, 2025, TMG, with approval of the Department, sent petitioner a notice that she would be disenrolled from IRIS because the program could not ensure petitioner's health and safety, noting that petitioner eloped from the residence and the caregiver did not notify the agency, even after signed the Risk Agreement.
9. Benefits were ordered to be continued pending this decision.

DISCUSSION

The IRIS program was developed pursuant to a Medical Assistance waiver obtained by the State of Wisconsin, pursuant to section 6087 of the Deficit Reduction Act of 2005 (DRA), and section 1915(c) of the Social Security Act. It is a self-directed personal care program. IRIS policies are found online at <http://www.dhs.wisconsin.gov/publications/p0/P00708.pdf>.

IRIS policies allow the program to end a participant's enrollment if program requirements are not met, and if the agency is unable to ensure the health and safety of the participant despite remediation efforts. See Exhibit J4.

Almost from the start of petitioner's association with TMG problems arose. Petitioner eloped from [REDACTED]'s home at least three times before the end of September. [REDACTED] did not report any of those events until much later. A Risk Agreement was signed in November with suggestions to help [REDACTED], but with specific warnings that [REDACTED] had to report if petitioner eloped and could not bill for time when petitioner was not at home. Nevertheless petitioner eloped again on December 23, [REDACTED] did not report it, and [REDACTED] billed full-time care hours for the 18-day period petitioner was gone. There clearly was a conflict of interest with [REDACTED] serving as guardian, care manager, and caregiver, and [REDACTED] voiced concern several times that she needed to report all hours because she had no other job. The upshot is that the services provided by IRIS did not alleviate petitioner's behaviors and elopements, leaving agency personnel unable to assure her health and safety.

Although petitioner and [REDACTED] appeared at the hearing and testified about their desire to keep working with TMG, I detected no sign of any changes that would prevent the same types of incidents in the future. I agree that although petitioner clearly would benefit from community waiver services, the self-directed IRIS program simply is not a good fit.

CONCLUSIONS OF LAW

The agency correctly disenrolled petitioner from IRIS because it could not ensure her health and safety.

THEREFORE, it is

ORDERED

That the petition for review is hereby 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.

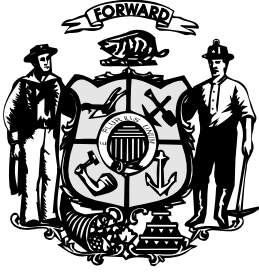
APPEAL TO COURT

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 Madison,
Wisconsin, this 17th day of February, 2025

\s _____
Brian C. Schneider
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 17, 2025.

Bureau of Long-Term Support