



State of Wisconsin DIVISION OF HEARINGS AND APPEALS

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June 10, 2025



Teresa Sommerfeldt
Bureau of Long-Term Support
PO Box 7851
Madison, WI 53707-7851

RE: [REDACTED]
Case No. CWA - 217048

Dear Parties:

Enclosed is a copy of the Final Decision in the above-referenced matter.

Sincerely,



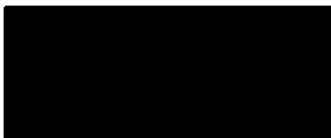
Shannon Buboltz
Legal Associate Supervisor

c: Bureau of Long-Term Support - email
- email



STATE OF WISCONSIN
Department of Health Services

In the Matter of



DECISION
Case #: CWA - 217048

The attached proposed decision of the hearing examiner dated April 24, 2025, is modified as follows and, as such, is hereby adopted as the final order of the Department.

PRELIMINARY RECITALS

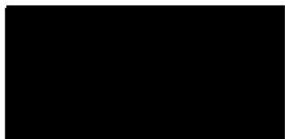
A petition was filed on January 14, 2025, under Wis. Admin. Code § HA 3.03, to review a decision by the Bureau of Long-Term Support regarding Medical Assistance (MA). The hearing was initially scheduled for February 13, 2025; however, the case had been opened as a MAPP and FoodShare appeal rather than an IRIS denial. Therefore, the IRIS Consultant Agency was not in attendance at the hearing to discuss the case. The hearing was rescheduled to February 27, 2025; however, the phones at the Division of Hearings and Appeals were not working at the time and the hearing had to be rescheduled. The hearing was then held on March 18, 2025, by telephone. The hearing record was left open for one week following the hearing so that additional documentation could be submitted.

The issue for determination is whether the petitioner's enrollment date for IRIS should be adjusted to August 1, 2024.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Theresa Sommerfeldt, TMG
Stacy Green, MILES IM Agency
Bureau of Long-Term Support
PO Box 7851
Madison, WI 53707-7851

ADMINISTRATIVE LAW JUDGE:
Kate J. Schilling
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES #) is a 60 year old resident of Milwaukee County who was enrolled in IRIS and receiving supportive home care assistance.
2. On May 13, 2024, the Income Maintenance agency (IM agency) noticed that there was unearned income for the petitioner's husband in the State Wage Income Collection Agency (SWICA) database that had not been reported.
3. On May 14, the IM agency sent out a request for verification of earned income due by June 3, 2024.
4. On June 7, 2024, the IM agency sent out another notice stating that it still had not received verification of earned income from the petitioner and her spouse. The notice stated that these verification items were due June 26, 2024.
5. On July 17, 2024, the agency sent a notice to the petitioner indicating that her IRIS and Medicaid benefits would end as of August 1, 2024, due to lack of earned income verification.
6. On July 20 or 22, 2024 (both dates are cited within the exhibits) the petitioner submitted an employer income verification form; however, it was not signed by the employer; therefore, it was insufficient for purposes of income verification.
7. The petitioner's Medicaid closed on August 1, 2024, due to failure to verify earned income. Since the petitioner was no longer financially eligible for Medicaid, her IRIS benefits closed on August 1, 2024.
8. August was the petitioner's annual renewal for Medicaid; therefore, the Medicaid renewal had to be completed to re-establish Medicaid benefits. On August 30, 2024, the IM agency processed the renewal and income verification submissions, and approved the petitioner's financial eligibility for Medicaid benefits as of August 1, 2024.
9. Due to high volume and staffing shortages with the ADRC, the petitioner was not able to get an appointment with the ADRC staff to re-enroll into IRIS until November 14, 2024. The petitioner selected enrollment with the IRIS Consultant Agency (ICA) and fiscal employer agent (FEA) that she had previously utilized. The ADRC then made the enrollment referrals to the ICA and FEA that same day.
10. It took until January 7, 2025, for the petitioner to be officially re-enrolled into IRIS as she had to go through the entire new enrollment and orientation process over again.

11. The petitioner filed an appeal with the Division of Hearings and Appeals on January 14, 2025, to obtain backdated IRIS benefits for the period of time from August 1, 2024 through January 6, 2025.

DISCUSSION

The IRIS program is a Medical Assistance (MA) home and community-based long term care waiver program authorized under §1915(c) of the Social Security Act. The program permits a state to furnish an array of home and community-based services that assist Medicaid beneficiaries to live in the community and avoid institutionalization. The State has broad discretion to design its waiver program to address the needs of the waivers target population. The waiver approved by the Centers for Medicare and Medicaid Services (CMS) which provides the program's authority is available at <https://www.dhs.wisconsin.gov/iris/hcbw.pdf>. State policies governing administration of the IRIS program are included in the IRIS Policy Manual (available at <https://www.dhs.wisconsin.gov/publications/p0/p00708.pdf>).

The petitioner lost Medicaid financial eligibility as of August 1, 2024, due to a failure to verify earned income in the household. The petitioner seemingly does not dispute that this verification item was outstanding at the end of July 2024 or that it took until August 30, 2024 to re-establish Medicaid financial eligibility. The Income Maintenance agency (IM agency) backdated Medicaid card services (non-long term care eligibility) to August 1, 2024, pursuant to policy in the *Medicaid Eligibility Handbook* (MEH) §2.8.2.

The IM agency approved the petitioner's financial eligibility for Medicaid on August 30, 2024. It is unknown when the IM agency made the referral to the Aging and Disability Resource Center (ADRC); this information is not provided by the record. The case was processed by the ADRC as a new enrollment for IRIS.

Due to high volume, staffing shortages, and scheduling delays with the county ADRC, the petitioner was not able to get an appointment until November 14, 2024. This was 77 days after Medicaid financial eligibility had been established by the IM agency. The case record does not contain any explanation for this timeframe and contains no documentation that would support a conclusion that the delay is attributable to any cause other than agency error. On November 14, 2024, the petitioner met with the ADRC options counselor and requested enrollment into the IRIS program with TMG as the IRIS Consultant Agency (ICA) and Acumen as the fiscal employer agent (FEA). It took until January 7, 2025, for the petitioner's IRIS enrollment to officially start as the IRIS agencies had to create a new service plan, complete the new participant orientation, sign all new paperwork, and rehire supportive home care workers.

At the hearing, the petitioner requested backdated IRIS benefits to August 1, 2024, so that her caregiver who provided supportive home care services between August 1, 2024 and January 6, 2025, can be paid for the hours they provided care. While Medicaid card services can be backdated, IRIS benefits generally cannot. We are beyond the appeal timeframe for the Division of Hearings and Appeals to review the disenrollment action that occurred on August 1, 2024 which had an appeal deadline of September 16, 2024. The petitioner did timely appeal the notice dated November 14, 2024, which indicated that her community waivers would start as of December 1, 2024.

When a person has been determined functionally and financially eligible for publicly funded long-term care, the ADRC staff must act promptly to provide information regarding enrollment into Family Care or IRIS.

In this case, it took 77 days for the petitioner to get an appointment with the ADRC and 55 days thereafter for her IRIS benefits to start. This ALJ determines this to constitute an agency error in this case. Under

these limited circumstances of an agency error resulting in an unreasonable delay during the 'unwinding period' of fall 2024, backdating of IRIS can be an appropriate equitable remedy. For these reasons, an adjusted IRIS start date of November 1, 2024, is appropriate.

CONCLUSIONS OF LAW

The petitioner's IRIS start date should be adjusted to November 1, 2024.

THEREFORE, it is

ORDERED

That the agency shall, within 10 days of the date of the Final Decision, take all necessary administrative steps to revise the petitioner's IRIS enrollment date to November 1, 2024.

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, Madison, WI 53705-9100 **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, Madison, WI, 53703, **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 request (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 10th day
of June, 2025.


Kirsten L. Johnson, Secretary
Department of Health Services



FH

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

In the Matter of



PROPOSED DECISION

Case #: CWA - 217048

PRELIMINARY RECITALS

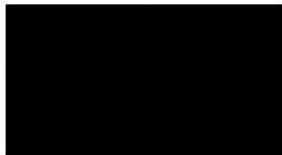
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By: Theresa Sommerfeldt, TMG
Stacy Green, MILES IM Agency
Bureau of Long-Term Support
PO Box 7851
Madison, WI 53707-7851

ADMINISTRATIVE LAW JUDGE:
Kate J. Schilling
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES #) is a 60 year old resident of Milwaukee County who was enrolled in IRIS and receiving supportive home care assistance.
2. On May 13, 2024, the Income Maintenance agency (IM agency) noticed that there was unearned income for the petitioner's husband in the State Wage Income Collection Agency (SWICA) database that had not been reported.
3. On May 14, the IM agency sent out a request for verification of earned income due by June 3, 2024.
4. On June 7, 2024, the IM agency sent out another notice stating that it still had not received verification of earned income from the petitioner and her spouse. The notice stated that these verification items were due June 26, 2024.
5. On July 17, 2024, the agency sent a notice to the petitioner indicating that her IRIS and Medicaid benefits would end as of August 1, 2024, due to lack of earned income verification.
6. On July 20 or 22, 2024 (both dates are cited within the exhibits) the petitioner submitted an employer income verification form; however, it was not signed by the employer; therefore, it was insufficient for purposes of income verification.
7. The petitioner's Medicaid closed on August 1, 2024, due to failure to verify earned income. Since the petitioner was no longer financially eligible for Medicaid, her IRIS benefits closed on August 1, 2024.
8. August was the petitioner's annual renewal for Medicaid; therefore, the Medicaid renewal had to be completed to re-establish Medicaid benefits. On August 30, 2024, the IM agency processed the renewal and income verification submissions, and approved the petitioner's financial eligibility for Medicaid benefits as of August 1, 2024.
9. Due to high volume and staffing shortages with the ADRC, the petitioner was not able to get an appointment with the ADRC staff to re-enroll into IRIS until November 14, 2024. The petitioner selected enrollment with the IRIS Consultant Agency (ICA) and fiscal employer agent (FEA) that she had previously utilized. The ADRC then made the enrollment referrals to the ICA and FEA that same day.
10. It took until January 7, 2025, for the petitioner to be officially re-enrolled into IRIS as she had to go through the entire new enrollment and orientation process over again.
11. The petitioner filed an appeal with the Division of Hearings and Appeals on January 14, 2025, to obtain backdated IRIS benefits for the period of time from August 1, 2024 through January 6, 2025.

DISCUSSION

The IRIS program is a Medical Assistance (MA) home and community-based long term care waiver program authorized under §1915(c) of the Social Security Act. The program permits a state to furnish an array of home and community-based services that assist Medicaid beneficiaries to live in the community

and avoid institutionalization. The State has broad discretion to design its waiver program to address the needs of the waivers target population. The waiver approved by the Centers for Medicare and Medicaid Services (CMS) which provides the program's authority is available at <https://www.dhs.wisconsin.gov/iris/hcbw.pdf>. State policies governing administration of the IRIS program are included in the IRIS Policy Manual (available at <https://www.dhs.wisconsin.gov/publications/p0/p00708.pdf>).

The petitioner lost Medicaid financial eligibility as of August 1, 2024, due to a failure to verify earned income in the household. The petitioner seemingly does not dispute that this verification item was outstanding at the end of July 2024 or that it took until August 30, 2024 to re-establish Medicaid financial eligibility. The Income Maintenance agency (IM agency) backdated Medicaid card services (non-long term care eligibility) to August 1, 2024, pursuant to policy in the *Medicaid Eligibility Handbook* (MEH) §2.8.2.

The IM agency approved the petitioner's financial eligibility for Medicaid on August 30, 2024. It is unknown when the IM agency made the referral to the Aging and Disability Resource Center (ADRC) for the petitioner's re-enrollment into IRIS. As the petitioner's Medicaid financial eligibility was approved within 30 days, she likely would have been eligible for expedited reinstatement of IRIS. Expedited re-enrollment would have streamlined the process of the re-enrollment by being able to reinstate the most recent IRIS service plan, rehiring supportive home care staff, and avoiding the need to complete the new participant orientation and paperwork. *IRIS Policy and Procedure Publication P-03547 (updated September 2024)* §B.1.b. However, expedited reinstatement did not occur in this case, and instead the case was processed by the ADRC as a new enrollment for IRIS.

Due to high volume, staffing shortages, and scheduling delays with the county ADRC, the petitioner was not able to get an appointment until November 14, 2024. This was 77 days after Medicaid financial eligibility had been established by the IM agency. On November 14, 2024, the petitioner met with the ADRC options counselor and requested enrollment into the IRIS program with TMG as the IRIS Consultant Agency (ICA) and Acumen as the fiscal employer agent (FEA). However, it took until January 7, 2025, for the petitioner's IRIS enrollment to officially start as the IRIS agencies had to create a new service plan, complete the new participant orientation, sign all new paperwork, and rehire supportive home care workers. According to the Division of Medicaid Services publication *IRIS Policy and Procedure, Program Enrollment* (P-03547, updated September 2024), the agency has 60 days from the date of referral to establish a participant's IRIS benefits. Hence, the agency taking 55 days for the implementation of an approved IRIS service plan did not violate IRIS policy.

At the hearing, the petitioner requested backdated IRIS benefits to August 1, 2024, so that her caregiver who provided supportive home care services between August 1, 2024 and January 6, 2025, can be paid for the hours they provided care. I am unable to go back that far for two reasons. First, the petitioner was not financially eligible for Medicaid again until August 30, 2024. While Medicaid card services can be backdated, IRIS benefits generally cannot. Second, we are beyond the appeal timeframe for the Division of Hearings and Appeals to review the disenrollment action that occurred on August 1, 2024 which had an appeal deadline of September 16, 2024. The petitioner did, however, timely appeal the notice dated November 14, 2024, which indicated that her community waivers would start as of December 1, 2024.

When a person has been determined functionally and financially eligible for publicly funded long-term care, the ADRC staff must act promptly to provide information regarding enrollment into FamilyCare or IRIS.

After confirming that a customer is functionally and financially eligible for publicly funded long-term care, you must provide information to the customer **within five business days** so that the customer can use the information to make a selection

among FamilyCare, IRIS, and, where available, FamilyCare Partnership and PACE, as well as available MCOs, ICAs, and FEAs.

(Emphasis added.) *ADRC Operations Manual, Enrollment Counseling*, section II (B), page 3, publication P-03062-03A (updated April 2025). Even when an ADRC must determine a person's functional eligibility for community waivers, it must do so within 30 days of receiving the referral. Wis. Admin. Code § DHS 10.31 (6); See also *Scope of Services for the ADRC Grant Agreement* with the WI DHS (2024 edition, section H, page 11).

In this case, it took 77 days for the petitioner to get an appointment with the ADRC and then 55 days thereafter for her IRIS benefits to start. Had the petitioner been able to schedule an appointment with the ADRC within five business days of becoming Medicaid financially eligible (on August 30), she could have made her enrollment elections into the ICA and FEA on or about September 6, 2024. If the ADRC had made the enrollment referral to the IRIS agencies that same day, then the re-enrollment process by the IRIS agencies would have likely been completed by November 1, 2024, which is 56 days out. For these reasons, an adjusted IRIS start date of November 1, 2024, is appropriate.

As the Department must make the final decision to adjust the enrollment date for the IRIS program, this Decision is issued as a Proposed Decision.

CONCLUSIONS OF LAW

The petitioner's IRIS start date should be adjusted to November 1, 2024.

THEREFORE, it is

ORDERED

That if this Proposed Decision is adopted by the Secretary of the Department of Health Services as the Final Decision in this matter, the agency shall, within 10 days of the date of the Final Decision, take all necessary administrative steps to revise the petitioner's IRIS enrollment date to November 1, 2024.

NOTICE TO RECIPIENTS OF THIS DECISION:

This is a Proposed Decision of the Division of Hearings and Appeals. IT IS NOT A FINAL DECISION AND SHOULD NOT BE IMPLEMENTED AS SUCH. If you wish to comment or object to this Proposed Decision, you may do so in writing. It is requested that you briefly state the reasons and authorities for each objection together with any argument you would like to make. Send your comments and objections to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy to the other parties named in the original decision as 'PARTIES IN INTEREST.'

All comments and objections must be received no later than 15 days after the date of this decision. Following completion of the 15-day comment period, the entire hearing record together with the Proposed Decision and the parties' objections and argument will be referred to the Secretary of the for final decision-making.

The process relating to Proposed Decision is described in Wis. Stat. § 227.46(2).

Given under my hand at the City of Madison,
Wisconsin, this 24th day of April, 2025

[Redacted Signature]

Kate J. Schilling
Administrative Law Judge
Division of Hearings and Appeals