



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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June 18, 2025



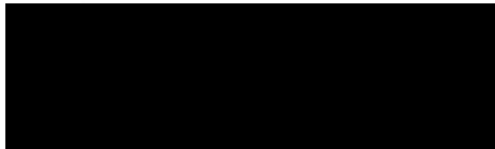
Teresa Sommerfeldt
Bureau of Long-Term Support
PO Box 7851
Madison, WI 53707-7851

RE: [REDACTED]
Case No. CWA - 216814

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



FH

STATE OF WISCONSIN
Department of Health Services

In the Matter of



DECISION
Case #: CWA - 216814

The attached proposed decision of the hearing examiner dated April 11, 2025, is modified as follows and, as such, is hereby adopted as the final order of the Department.

PRELIMINARY RECITALS

Pursuant to a petition filed on January 28, 2025, under Wis. Admin. Code § HA 3.03, to review a decision by the Bureau of Long-Term Support (the agency) regarding Medical Assistance (MA), specifically the IRIS program, a telephonic hearing was held on March 13, 2025, by telephone.

The issue for determination is whether petitioner's IRIS enrollment date should be revised.

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
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 Waupaca County and has been enrolled in the IRIS program.
2. On November 11, 2024 the income maintenance (IM) agency issued a notice of MA renewal to petitioner stating the renewal should be completed by December 18, 2024 to prevent a disruption in benefits. Petitioner was required to renew his Community Waivers/MA eligibility (and IRIS enrollment) by December 31, 2024.
3. Petitioner submitted his MA renewal on November 11, 2024.
4. On November 15, 2024 the IM agency processed the renewal and sent a verification request for the cash value of a life insurance policy (LIP) that had been reported in the renewal.
5. On December 10, 2024 the IM agency issued a notice to petitioner stating his MA benefits would end December 31, 2024 due failing to verify the LIP.
6. On December 13, 2024 and December 23, 2024 petitioner followed up with the Income Maintenance Agency to state he was not the listed owner of the LIP and was having difficulty getting verification when he was not the owner.
7. On December 16, 2024 petitioner's IRIS Consultant (IC) discussed the importance of timely completing the renewal and providing verifications with the petitioner.
8. On December 22, 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 December 31, 2024.
9. On January 5, 2024 a Wisconsin Long-Term Care Program Disenrollment Notice was issued to the petitioner by the 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 December 31, 2024.
10. On January 2, 2025 petitioner provided the requested verification into the agency.
11. On January 3, 2025 the agency processed the verification and opened Community Waivers/MA to effective January 1, 2025.
12. On January 6, 2025 the IM agency issued a notice to petitioner advising his MA/Community Waivers was open effective January 1, 2025.
13. On January 10, 2025 TMG received an IRIS referral from the ADRC for petitioner.
14. TMG began an expedited re-enrollment after receiving the referral but due to delays with having to choose a new Fiscal Employer Agency (FEA) in that process, his enrollment into IRIS was not confirmed until March 11, 2025.

DISCUSSION

The IRIS program is a MA long term care waiver program that serves elderly individuals and adults with physical and developmental disabilities. 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. The federal government has promulgated 42 C.F.R. § 441.300 - .310 to provide general guidance for this program. Those regulations require that the agency's agent must assess the participant's needs and preferences (including health status) as a condition of IRIS participation. *Id.*, § 441.301(c)(2). IRIS is an alternative to Family Care, Partnership, and PACE—all of which are managed long term care waiver programs in Wisconsin. The IRIS program 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*, (available online at <http://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 online 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 Department of Health Services (DHS) is the state agency that oversees and administers the IRIS program and it contracts with and/or assigns specific operational duties to each of the following: Aging and Disability Resource Centers ("ADRCs"), IRIS consultant agencies ("ICAs"), FEAs, and IM agencies.

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*, p. 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 December 2024 for failing to timely complete his annual review. The agency can backdate MA eligibility under separate MA policy, and that was done. *See Finding of Fact #12*; 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>). IRIS policy also provides that if a renewal is completed within 30 days of closure, it can be processed as an "expedited re-enrollment", which occurred. *See Exhibit I*.

The preponderance of the evidence shows that there was agency error in terminating his Community Waivers/MA as of December 31, 2024. It is clear that petitioner reported a LIP on his renewal in November. Because he reported it, the IM agency correctly requested verification of that as a possible available asset. *See MEH § 20.3.5*. When he got the notice saying his MA was ending for failing to verify the LIP, he went to the agency to discuss it. Admittedly, he now knows he did not have to report that as an asset because he is not the owner of the LIP. It is in fact a term life insurance policy on him but owned by another person (his ex-wife/PK) to cover his funeral/burial expenses. He explained this to an agency worker on December 13. He then called the agency on December 23 with PK on the phone and they again explained the same facts and that they were having difficulty getting the verification from the insurance company in a timely manner. It was apparently then that the worker on the 23rd, took in their information, but needed to confirm any action with a lead worker. Case Comments reflect that the lead worker then decided that the verification was indeed necessary and requested verification again, however that was due after the deadline of the 31st.

When verifying information, the MA recipient has the primary responsibility for providing verification. See *MEH* § 20.5. However, MA policy also provides:

Do not deny eligibility when the member does not have the ability to produce verification.

Assist the member in obtaining verification if he or she has difficulty in obtaining it.

Use the best information available to process the application or change within the time limit and issue benefits when the following two conditions exist:

1. The member does not have the power to produce verification, **and**
2. Information is not obtainable timely even with your assistance.

In this situation, seek verification later. When you have received the verification, you may need to adjust or recoup benefits based on the new information. Explain this to the member when requesting verification.

Id. (emphasis added).

Petitioner testified that he had been confused about having to report the LIP but was simply trying to be honest. He then tried to correct his reporting error by going into the agency and calling the agency to explain that he did not own the asset. Under these facts, it is clear petitioner had attempted to provide the best evidence of the LIP and advised the agency he was having difficulty getting the verification in a timely manner.

Turning to the question of whether an agency error then caused an unreasonable delay in IRIS re-enrollment, there was no dispute that the re-enrollment process was delayed due to the required switch in petitioner's FEA. The DHS has placed a cap on iLife referrals, which was petitioner's FEA. This required petitioner to choose another FEA and complete enrollment. Placing a cap on iLife referrals is not alleged or demonstrated to be an agency error.

Petitioner argues that under the facts of this case, his IRIS enrollment date should be revised from March 11, 2025 to January 1, 2025. I agree that the preponderance of the evidence shows there were issues caused by agency error that caused his Community Waivers/MA to end on December 31, 2024. However, the record does not show that agency errors caused an unreasonable delay in re-enrolling him. Requiring a new FEA is not an agency error when the cap on the original FEA is not an error.

CONCLUSIONS OF LAW

Petitioner is not eligible to receive backdated IRIS benefits for a period of time preceding enrollment.

THEREFORE, it is

ORDERED

That the appeal is denied.

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 18th day
of June, 2025.



Kirsten L. Johnson, Secretary
Department of Health Services



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



PROPOSED DECISION
Case #: CWA - 216814

PRELIMINARY RECITALS

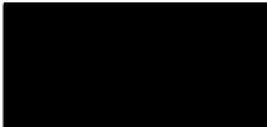
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DISCUSSION

The IRIS program is a MA long term care waiver program that serves elderly individuals and adults with physical and developmental disabilities. 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. The federal government has promulgated 42 C.F.R. § 441.300 - .310 to provide general guidance for this program. Those regulations require that the agency's agent must assess the participant's needs and preferences (including health status) as a condition of IRIS participation. Id., § 441.301(c)(2). IRIS is an alternative to Family Care, Partnership, and PACE—all of which are managed long term care waiver programs in

Wisconsin. The IRIS program 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, (available online at <http://www.dhs.wisconsin.gov/publications/P0/P00708.pdf>),

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In this case, the petitioner's MA, and therefore his IRIS eligibility, ended at the end of December 2024 for failing to timely complete his annual review. The agency can backdate MA eligibility under separate MA policy, and that was done. See Finding of Fact #12; 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>). IRIS policy also provides that if a renewal is completed within 30 days of closure, it can be processed as an "expedited re-enrollment", which occurred. See Exhibit I.

The problem in this case is two-part. First, the preponderance of the evidence shows that there was agency error in terminating his Community Waivers/MA as of December 31, 2024. It is clear that petitioner reported a LIP on his renewal in November. Because he reported it, the IM agency correctly requested verification of that as a possible available asset. See *MEH* § 20.3.5. It is questionable whether he received the verification request itself because it is clear he was working with the agency to complete the renewal otherwise. Indeed, when he got the notice saying his MA was ending for failing to verify the LIP, he went to the agency to discuss it. Admittedly, he now knows he did not have to report that as an asset because he is not the owner of the LIP. It is in fact a term life insurance policy on him but owned by another person (his ex-wife/PK) to cover his funeral/burial expenses. He explained this to an agency worker on December 13. He then called the agency on December 23 with PK on the phone and they again explained the same facts and that they were having difficulty getting the verification from the insurance company in a timely manner. It was apparently then that the worker on the 23rd, took in their information, but needed to confirm any action with a lead worker. Case Comments reflect that the lead worker then decided that the verification was indeed necessary and requested verification again, however that was due after the deadline of the 31st.

When verifying information, the MA recipient has the primary responsibility for providing verification. See *MEH* § 20.5. However, MA policy also provides:

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2. Information is not obtainable timely even with your assistance.

In this situation, seek verification later. When you have received the verification, you may need to adjust or recoup benefits based on the new information. Explain this to the member when requesting verification.

Id. (emphasis added).

Petitioner testified that he had been confused about having to report the LIP but was simply trying to be honest. He then tried to correct his reporting error by going into the agency and calling the agency to explain that he did not own the asset. Under these facts, it is clear petitioner had attempted to provide the best evidence of the LIP and advised the agency he was having difficulty getting the verification in a timely manner. It is likely that the two-step review with a new worker during what may be the busiest time of the year that the lapse occurred in not using the best information available and not denying his benefits.

Secondly, there was no dispute that the re-enrollment process was delayed due to the required switch in petitioner's FEA. The DHS has placed a cap on iLife referrals, which was petitioner's FEA. This required petitioner to choose another FEA and complete all enrollment paperwork that is needed for billing. The DHS is no stranger to the fact that this has caused significant delays in the expedited referral process. Those delays occurred through no fault of petitioner.

Petitioner argues that under the facts of this case, his IRIS enrollment date should be revised from March 11, 2025 to January 1, 2025. I agree that the preponderance of the evidence shows there were issues caused by agency error that caused his Community Waivers/MA to end on December 31, 2024 and agency delay in re-enrolling him given the issues with requiring a new FEA. Because the DHS has found that "DHA does not have the authority to make a final decision to adjust the enrollment date in the IRIS program under the expedited re-enrollment process". (Wis. Div. Hearings & Appeals Jan. 4, 2024) (DHS), this decision is being issued as proposed.

CONCLUSIONS OF LAW

Petitioner's enrollment date for IRIS should be adjusted to January 1, 2025.

THEREFORE, it is ORDERED

That, if this proposed decision is adopted as final by the Department Secretary, the agency must, within ten days of the date of the Final Decision, take all necessary administrative steps to revise the petitioner's IRIS enrollment date to January 1, 2025.


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 Department of Health Services 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 Milwaukee,
Wisconsin, this 11th day of April, 2025.



Kelly Cochrane
Administrative Law Judge
Division of Hearings and Appeals