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STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[redacted]

DECISION
Case #: CWA - 218226

PRELIMINARY RECITALS

Pursuant to a petition filed on May 9, 2025, 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 September 30, 2025, by telephone.

At the hearing, Petitioner's IRIS Consultant Agency, TMG, was afforded an opportunity to provide an additional written response to new information produced by Petitioner no later than October 10, 2025. That response was timely received and entered into the record. Petitioner was afforded a period of time to file a written reply to TMG's response no later than October 17, 2025, which was also timely received and entered into the record.

The issue for determination is whether Petitioner is entitled to IRIS coverage of a residential elevator with shaft.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[redacted]

Petitioner's Representative:

Attorney Lori Kornblum
Law Offices of Lori S. Kornblum
10936 N Port Washington Rd, Ste 296
Mequon, WI 53092

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703
By: Pamela Schrieber, TMG
Bureau of Long-Term Support
PO Box 7851
Madison, WI 53707-7851

ADMINISTRATIVE LAW JUDGE:
Wendy I. Smith
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 45-year-old resident of Waukesha County and a participant in the IRIS program. Petitioner's IRIS Consultant Agency is TMG.

2. Petitioner has diagnoses of infantile cerebral palsy and quadriplegia, as well as irritable bowel syndrome, vitamin D deficiency, morbid obesity, venous insufficiency, scoliosis, arthropathy, osteoporosis, generalized flexion contractures of lower limb joints, contracture of joints, chronic pain, neurogenic bladder, urinary incontinence, premenstrual dysphoric syndrome, dysmenorrhea, abnormal uterine bleeding, labial hypertrophy, ovarian cyst, endometriosis and endometrial polyp, obsessive compulsive disorder, generalized anxiety disorder, panic disorder with agoraphobia, major depressive disorder, psoriasis, hyperhidrosis, insomnia, and rosacea.

3. According to a Long-Term Care Functional Screen dated March 26, 2025, Petitioner requires hands-on assistance with all activities of daily living (ADLs) and all instrumental activities of daily living (IADLs). She requires overnight care.

4. Petitioner is non-weight-bearing and cannot perform transfers without assistance. For mobility, Petitioner uses a customized power wheelchair. According to the Long-Term Care Functional Screen, Petitioner has difficulty safely operating her wheelchair due to peripheral vision loss. She requires assistance with maneuvering around corners and furniture.

5. Petitioner's Individual Support and Services Plan (ISSP) for the period of July 2024 through June 2025 includes a total budget amount of $101,374.68. For the period of July 2025 through June 2026, her ISP includes a total budget amount of $102,893.16. These plans budget for services and items such as facility-based day services, transportation, supportive home care, respite care, alternative therapies, massage therapy, specialized technologies, and supplies.

6. Petitioner's ISPs authorize weekly bathing at St. Ann Center for Intergenerational Care, where Petitioner is also authorized to attend day services once per week.

7. Petitioner lives with her mother, [redacted] in a single-family home after moving there in January 2023. The home is not designed for wheelchair accessibility. Petitioner's room is currently located in the basement of the home, which connects directly to a drive-in garage. Petitioner is not currently able to access the main living areas on the first floor of the home as the only way up from the basement is by stairway.

8. Petitioner's home does not have a full bathroom on the basement level. The bathrooms on the main level of the home are not currently accessible for Petitioner to use for bathing. To bathe, Petitioner uses the weekly services at St. Ann and sponge baths at home.

9. Petitioner is unable to independently operate a vertical platform lift (VPL) or residential elevator, due to inability to operate buttons and due to anxiety. She would require a caregiver to ride with her in either device. It is estimated that Petitioner, her power wheelchair, and a caregiver would weigh at least 850 pounds.

10. An Accessibility Assessment (AA) dated February 8, 2023, by Independence First found that a vertical platform lift (VPL) with enclosure or a residential elevator was needed in Petitioner's garage. This AA found that a VPL with enclosure (750-pound minimum capacity to accommodate the user and mobility equipment, with a 4" concrete pad) would be the most cost-effective option, considering installation and maintenance. The AA notes that if a residential elevator is desired, Petitioner would be responsible for the additional cost over the VPL. The assessor did not recommend an exterior ramp to the front door or a chair-type stair lift.

11. Independence First amended its AA on March 3, 2023, to note that the recommended VPL would need to accommodate the total size and combined weight of Petitioner, her wheelchair, and a caregiver, and that the shaft must be insulated. The report still identified the VPL as the most cost-effective option compared to a residential elevator but did not provide detailed cost information.

12. On September 7, 2023, Petitioner was approved by the Department of Health Services (DHS) for a one-time expense (OTE) of $19,998.00 for a VPL.

13. Petitioner engaged another accessibility assessor, Keller Assessment Services, to provide an evaluation. An AA dated November 9, 2023, recommended a residential elevator to accommodate Petitioner, her wheelchair, and a caregiver. The Keller AA found that Petitioner would need an enclosed lift on all four sides because she is not able to control movements of her arms and hands and would therefore be at risk of injury riding a lift with open sides.

    This AA states that a stair lift is not a viable option because Petitioner is not able to sit upright independently and the stairway is too narrow for an incline lift. The AA did not recommend a ramp due to length.

14. Independence First amended its AA on December 28, 2023, after completing a follow-up visit to Petitioner's home. The amended AA again recommended a VPL with enclosure (minimum 750-pound capacity, with a 4" concrete pad).

    The amended AA did not recommend a residential elevator as one would be far more expensive (in installation and maintenance) than a VPL and an elevator would not offer more significant functional benefits than the recommended VPL. No detailed cost comparison was included. A "shaftless home elevator" was not recommended as one would not be able to carry the weight of Petitioner and her power wheelchair. The amendment also did not recommend a ramped entrance, a portable stair climber, a chair-type stair lift, or a second driveway.

15. An OTE for a residential elevator was previously requested and denied on April 12, 2024. Petitioner appealed that denial to the Division of Hearings and Appeals. After a hearing, the denial was upheld, and a subsequent rehearing request was denied. This denial is not at issue in this appeal.

16. On or about March 25, 2025, Petitioner again submitted an OTE request for a residential elevator with shaft.

17. Petitioner obtained quotes for installing a residential elevator. A quote from Access Elevator, Inc. dated January 30, 2025, estimated $47,459.00 for elevator installation. This quote does not include construction of a shaft, 8" pit, electrical work, door frames, machine room space, and other such work.

A quote from Garaventa Lift dated October 1, 2024, estimated $43,861.00 for elevator installation. The quote does not include construction of the shaft, 9.5" pit, electrical work, door frames, machine room space, and other such work.

A quote from Wisconsin Elevator dated January 30, 2025, estimated $42,000.00 for elevator installation. The quote does not include construction of the shaft, 12" pit, electrical work, door frames, machine room space, and other identified work.

18. A vendor bid comparison for construction of a shaft for a residential elevator provided three estimates of $49,900.00, $49,550.00, and $50,000.00.

19. Annual maintenance agreements for a VPL or residential elevator range from $400 to $650 per year, based on quotes obtained by Petitioner from three vendors.

20. In a notice dated April 29, 2025, the Department of Health Services denied Petitioner's OTE for the residential elevator with shaft on the grounds that the request was not the most cost-effective way to support her outcome and that she did not need the elevator to support her outcome. The denial states, in part:

> The participant has requested a residential elevator with a shaft. The Department asked the participant to provide yearly costs of maintenance for a residential elevator with a shaft. The participant did provide this information. The cost of a maintenance plan can run from $500- $650 a year and it covers 2 visits per year by the vendor. However, these do not include the cost of repairs. According to the website, Fixr.com, for residential elevators, "the national average of repairing an elevator is $550 to $1,000 with most people paying around $800 for minimum service call to repair a stuck door. At the low end, you will pay $150 for minor repair of a sensor. On the high end, expect to pay $4,500 for the replacement of cables."
>
> According to the Accessibility Assessment completed by Independence First, the assessor has recommended a Vertical Platform Lift (VPL) with an enclosure. Per the Accessibility Assessment, "A Vertical Platform Lift (VPL) will be needed for Ms. [redacted] to get from the garage level to the main living level of the home. The VPL is the most cost-effective solution for her to have a safe home egress. An enclosure will be needed around the VPL to block airflow between the garage and the living area of the home. The enclosure must be sealed when the door is closed to protect against temperature loss/fluctuation as well as the penetration of dangerous fumes from the garage getting into the living area of the home. Vendors will need to check to make sure the existing floor of the garage will meet the requirements of the manufacture before installing the VPL. If new concrete is needed the cost to replace it should be included in the bid. Any structural modifications such as relocating duct work, electrical, and/or additional structural reinforcements should also be included in the bid."
>
> Since the Accessibility Assessment has recommended a Vertical Platform Lift, the request for a residential elevator with a shaft is denied. The IRIS Policy Manual (P-00708) states on page 27, "Modifications not recommended in the accessibility assessment are excluded" and "Modifications that are not the most cost-effective approach to meeting the participant's long-term care outcomes are excluded."

21. The Independence First AA was amended on June 25, 2025, to reconsider the chair-type stair lift. The amended AA states that it would be possible to install a curved rail chair lift, but that mobility

and/or transfer equipment would need to be installed at the bottom and top of the stairs, and Petitioner's power wheelchair would not be transported upstairs without resolving other accessibility issues with the front yard. This amended AA does not address whether Petitioner could safely ride in a stair lift seat given her physical conditions.

The amended AA states that if weight capacity is a concern for a VPL, Petitioner could use a transfer chair for traveling and transport the power wheelchair in a second trip. The use of transfer/secondary equipment could decrease overall program costs.

22. The Keller AA was amended on September 25, 2025, to again recommend a residential elevator and to assert that Petitioner is not able to ride a stairlift due to being unable to sit upright or bend her legs at the knees.

23. Updated quotes for installation of a residential elevator are estimated at $49,164.00 (Garaventa, May 5, 2025) and $47,459.00 (Access Elevator, May 1, 2025), excluding construction and electrical work. Updated quotes for installation of a 1,000-pound capacity VPL are estimated at $56,980.00 (Garaventa, May 5, 2025) and $49,559.00 (Access Elevator, May 1, 2025). Updated quotes for installation of a 750-pound capacity VPL are estimated at $42,312.00 (Garaventa, May 5, 2025) and $44,725.00 (Access Elevator, May 5, 2025).

24. Petitioner now appeals to the Division of Hearings and Appeals.

DISCUSSION

The Include, Respect, I Self-Direct (IRIS) program is a Medical Assistance long-term care waiver program that serves elderly individuals and adults with physical and developmental disabilities. The IRIS program is designed to allow participants to direct their own care and to hire and direct their own workers. Its broad purpose is to help participants design and implement home- and community-based services as an alternative to institutional care.

The IRIS *Waiver Application* most recently approved by the Centers for Medicare and Medicaid Services (CMS) is available online at https://www.dhs.wisconsin.gov/iris/hcbw.pdf. *Application for 1915(c) HCBS Waiver: WI.0484.R03.00 (Eff. Jan 01, 2021)* (the *Waiver Application*). State policies governing administration of the IRIS program are included in the *IRIS Policy Manual*, available at http://www.dhs.wisconsin.gov/publications/P0/P00708.pdf, the *IRIS Work Instructions,* available at http://www.dhs.wisconsin.gov/publications/P0/P00708a.pdf, and the *IRIS Service Definition Manual*, available at https://www.dhs.wisconsin.gov/publications/p00708b.pdf. Note that the *IRIS Policy Manual* was recently updated in October 2025. The manual in effect at the time of the denial in this case (P-00708, eff. 04/2024) was consulted and all citations to the manual are to this prior version.

Consistent with the terms of the approved waiver, every IRIS participant is assigned a budget which is generated based on information obtained during a screening of the participant's long-term care functional needs. *IRIS Policy Manual* § 5.3. With the assistance of an IRIS Consultant Agency (ICA), participants develop an Individual Support and Service Plan (ISSP) for using waiver services to meet individual outcomes, assessed needs, and the participant's health and safety. *See Waiver Application* at p. 5; *see also* 42 C.F.R. § 441.301(b)(1)(i). IRIS funds can only be used within an approved plan and only for services, supports, or goods authorized under the *Waiver Application*. Participants can request changes to their plan and increases to their budget (i.e., through expense requests and budget amendment requests). *Waiver Application*, Appendix E-2; *IRIS Policy Manual* §§ 5.6, 5.7, 5.8. Generally, when considering whether to authorize a request, the IRIS program must consider factors such as medical necessity,

appropriateness, cost, frequency, other less expensive alternatives, and others identified at Wis. Admin. Code DHS § 107.02(3)(e).

Eligibility for public assistance benefits is not a default position that the Department must rebut, but rather a privilege that must be proved by the person seeking benefits. *See e.g., Tarrant v. Wisconsin Dep't of Health Servs.*, 2019 WI App 45, ¶ 5, 388 Wis. 2d 461, 464, 933 N.W.2d 145, 147 (Wis. App. 2019), citing *Est. of Gonwa ex rel Gonwa v. Wisconsin Dep't of Health & Fam. Servs.*, 2003 WI App 152, ¶¶ 17-18, 265 Wis. 2d 913. As Petitioner seeks eligibility for additional funds through a One-Time Expense (OTE) request, Petitioner bears the initial burden of proving, by a preponderance of the evidence, that she is entitled to these benefits.

Home modifications may be an allowable service covered by IRIS if certain criteria are met. *IRIS Policy Manual* §§ 5.4A, 5.8. Appendix C of the *Waiver Application* provides the following:

> Home modifications are physical adaptations to the private residence of a participant or participant's family that ensure the health, welfare, and safety of the participant and enable the participant to function with greater independence in the home. These are generally permanent fixtures and/or changes to the physical structure of the home. This service category also includes cost of materials, services, permits and inspections, maintenance, and extended warranties necessary for a home modification.
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> …
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> Acquisition of all modifications, including use of independent assessments, is subject to program policy consistent with this service definition.
>
> Modifications to rental properties require additional assurances. This service category excludes:
> - Modifications or improvements that are of general home maintenance and upkeep;
> - Modifications made to living arrangements that are owned or leased by agency providers of other waiver services;
> - Modifications that do not meet standards of manufacture, design, and installation; and
> - Modifications that add to the total square footage of the home, except when necessary to complete a modification and shown to be the most cost effective option.
>
> All modifications are required to comply with applicable local and state housing or building codes and are subject to inspections required by the municipality responsible for administering the codes. Home modifications may only be funded through the waiver when otherwise not available through the State Plan, Medicare, EPSDT (for participants ages 18-21), or a responsible private or public entity. This service may not duplicate any service that is provided under another waiver service category.

Waiver Application, Appendix C, at p. 114. Home modifications include, but are not limited, to things like ramps, stair gliders and stair lifts, and vertical lifts. *Id.* Section 5.8.A of the *IRIS Policy Manual* provides the following:

> The definition of "Home Modification" is located in Appendix C of the approved 1915 (c) HCBS waiver and provides the following information regarding limitations:
>
> - "Modifications which increase the square footage or that enhance the general livability and value of a privately owned residence are excluded.

- Modifications not recommended in the accessibility assessment are excluded.
- Modifications that are not the most cost-effective approach to meeting the participant's long-term care related outcomes are excluded.
- Modifications proposed to modify a rental unit are generally excluded.

Home modifications must demonstrate that the modification addresses disability related long-term care needs that increase self-reliance and independence, or ensure safe, accessible means of ingress/egress to a participant's living quarters, or otherwise provide safe access to rooms, facilities or equipment within the participant's living quarters, or adjacent buildings that are part of the residence. Modifications which increase the square footage or that enhance the general livability and value of a privately owned residence are excluded.

Home modifications made prior to a person leaving an institutional setting cannot be paid for until the person leaves the institution and is enrolled in the IRIS Waiver with a plan start date.

Quotes from at least three providers must be obtained and submitted with the request for the home modification when the cost for modifications exceeds an amount set annually by the Department. In all cases, the provider with the most reasonable costs and the assurance of the appropriate level of quality will be selected."[1]

S*ee also IRIS Service Definition Manual*, pp. 42-43. Non-allowable home modifications include those designed for socializing and those that do not address the participant's independence, health, safety, or long-term care needs. *Id.* at § 5.8.A.2.

Necessity to Access the First Floor

Petitioner first asserts that she requires a safe means of transport from the basement to the first floor of the home. Petitioner experiences isolation in the basement and associated mental health and behavioral issues associated with her lack of access to the main living quarters upstairs. The stated goal is to allow Petitioner to primarily reside in a bedroom upstairs with closer access to her mother and the main living spaces. At the hearing, TMG's representative, Pamela Schrieber, testified that TMG agrees that access to the first floor is necessary and has been working with the family from the start to provide access. However, it argues that access must be accomplished with a cost-effective solution.

Contrary to this position, I do note that TMG intersperses arguments that access to the first floor is *not* necessary, such as arguing that bathing at St. Ann and sponge baths are adequate. TMG also argues that home modifications must increase independence and, because Petitioner requires assistance with all ADL/IADLs, that any home modification would not increase her independence. However, I take the testimony of Ms. Schrieber at the hearing as conclusive that Petitioner requires access to the first floor and that TMG has been, admittedly, trying to help her achieve this goal. This is generally supported by the fact that Petitioner was previously approved for a VPL in 2023. Had TMG or the Department actually deemed access unnecessary, it would not have approved a VPL, nor would it offer access alternatives to belay costs. I find that the agency therefore accepts the necessity for access to the first floor but disagrees that a residential elevator is the appropriate modification.

[1] The manual indicates that this text comes from the *Waiver Application*. It does not appear in the current, active *Waiver Application* (WI.0484.R03.00, eff. Jan 01, 2021) and instead appears to be a remnant from a prior CMS-approved waiver which is now terminated. *See Application for 1915(c) HCBS Waiver: WI.0485.R01.07 (Eff. Jan 08, 2015)*, available at https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/83626. The current, active waiver is the controlling document for describing the authorized scope of the program, but the text within the *IRIS Policy Manual* and the *IRIS Service Definition Manual* will be interpreted as adopted agency policy to the extent it does not conflict with the waiver.

Before addressing the options for access, I will address a few threshold arguments. First, TMG seems to argue that because IRIS is a payer of last resort, Petitioner must first seek private financing of the requested home modification. TMG provided information about WisLoan options for financing accessibility modifications in its post-hearing written response. Indeed, participants are required to seek payment for services through Medicaid, primary insurance, other governmental programs, and "other formal or informal supports" first before IRIS will consider payment. *IRIS Policy Manual* § 5.6.A.4.

Generally, neither the *Waiver Application* nor supporting policy expressly requires a participant to first seek *private financing* of their necessary care before seeking IRIS coverage. This would lead to the absurd result of each participant having to show that not only does Medicaid not provide coverage but that they are unable to put their desired services on a personal credit card or prove that a bank denied them a loan before the service could be added to an ISSP. This has not been demonstrated by TMG to be their standard policy to ask participants to first seek a loan for all goods and services. The *Waiver Application* does state that for home modifications the participant must first seek funding through the "State Plan, Medicare, EPSDT (for participants ages 18-21), or a responsible private or public entity." This language does not require a participant to go into personal debt before IRIS may pay for home modification.

Second, TMG makes multiple references to the fact that Petitioner used to live in a more accessible home and yet chose to move to a less accessible home, and that should be a valid reason for denying the request. Petitioner and her family made a choice to move into this home for easier access to family and services. Petitioner's home is not perfectly designed for a woman with quadriplegia, but that is where she lives and where she intends to live for the foreseeable future. Neither DHS nor TMG provides any clear legal or policy foundation for the argument that a participant must first seek accessible housing elsewhere before approving a home modification, or that a participant should be penalized for moving to a non-accessible home even if that move results in the benefits of greater local services or greater family support. If the agency wanted to impose such a requirement, it should be well documented in either the *Waiver Application* or the *IRIS Policy Manual*. I can find no such clear requirement. In this case, the IRIS program should consider her OTE request in accordance with its policies and procedures regardless of her choice of home.

OTE Denial of Residential Elevator

In seeking home modification, the participant must obtain an Accessibility Assessment (AA) by a qualified assessor which results in written recommendations, alternatives, and a comprehensive description of all cost-effective approaches considered relative to the request. *IRIS Policy Manual* § 5.8.C. Modifications not recommended in an AA are excluded. *Id.* at § 5.8.C.

Petitioner requested an OTE for a residential elevator. DHS and TMG denied the request by notice dated April 29, 2025. At the hearing, Ms. Schrieber summarized the bases of denial as (1) a residential elevator was not recommended by the Independence First AA as it is not the most cost-effective option and (2) there are discrepancies with the quotes provided by Petitioner for the elevator that do not comply with program requirements, such as differences in specifications.

In this case, we have competing AAs. The Independence First AA first identified the need for either a VPL *or* a residential elevator. It considered but did not recommend a ramp or chair-type stair lift. Ultimately, the AA recommended a VPL with enclosure as most cost-effective but assumed that a 750-pound VPL would be sufficient. Petitioner's evidence and testimony presented at the hearing establish that Petitioner would require a caregiver to ride in any lift device as she cannot independently operate either a VPL or an elevator. To accommodate Petitioner, her power wheelchair, and a caregiver, a VPL

or elevator would need to be rated for at least 850 pounds. The AA was later amended in March 2023 to note that the recommended VPL should be rated to accommodate Petitioner, her wheelchair, and a caregiver, and that any shaft must be insulated.

The AA was again amended in June 2025, after Petitioner's request for a hearing, to reconsider the possibility of a chair-type stair lift. This most recent amendment found that a curved rail chair lift on the basement staircase would be possible with customized seating. The amendment also noted that a lower capacity VPL could be utilized if Petitioner used a transfer chair in the VPL and her power wheelchair could ride in a separate trip. Independence First found that this option would be viable, increase lift options, and decrease overall program costs.

Petitioner engaged her own assessor, Keller Assessment Services, which recommended a residential elevator with shaft. Nancy Keller appeared at the hearing to testify about her recommendation. She identified safety concerns about the use of a VPL considering Petitioner's spasticity and the need for a caregiver to ride with her. She also testified that Petitioner would be unable to safely ride in a stair lift because she cannot hinge at the waist. She also identified lack of space at landings for operation of a Hoyer lift.

TMG asserts in its summary statement that the Keller AA "did not follow requirements of an assessment and did not provide other options" with no other explanation as to why this AA is deficient. The Keller AA does, in fact, consider other options and found them to be inappropriate. However, it is not as detailed as the Independence First AA. Nevertheless, having no clear reason to dismiss the Keller AA, I will consider it as a second opinion.

Stair Lift Option

I first address the recently proposed option of a curved stairlift. TMG asserts that a stairlift with a five-point harness and leg restraints is now the most cost-effective option. Such a stairlift would require a Hoyer or ceiling lift device at the base of the stairs, another lift device at the top of the stairs, and then Petitioner would have to use an alternative wheelchair on the first floor as there would be no way to transport her power wheelchair. Petitioner counters that she cannot safely ride in a stairlift due to her conditions. As the program is required to ensure the health and safety of its participants, a proposed home modification must also be safe for use by the participant. *IRIS Policy Manual* § 4.0.

The Keller AA noted that Petitioner is unable to sit upright independently, which was confirmed by Nancy Keller's testimony at the hearing and supported by Petitioner's medical documentation. Petitioner was also assessed for potential use of a stairlift by Bridgeway Independent Living Designs (BILD). According to a report generated by BILD which includes photographs, Petitioner's scoliosis and semi-reclined position of her body do not allow her to sit upright in a stairlift seat. She does not sit upright in her customized wheelchair for this reason and requires customized supports for her spine. Lower leg contractures inhibit her ability to bend her knees. The BILD report notes that Petitioner would require customized seating and a chest harness providing lateral and vertical support. The report notes that even using a chest harness, Petitioner could fall out of the seat. Due to the instability of Petitioner during the testing, a Hoyer sling remained in place to prevent her from injury. According to Melissa Lydecker and Sean Auter of BILD, who generated the report and appeared at the hearing, there is not a safe way for Petitioner to use a stairlift without a significant seat tilt which is not an option with a stairlift. I find Petitioner's evidence credible that her medical conditions prevent safe use of a stairlift.

Neither TMG nor DHS offered any credible evidence to counter Petitioner's position. The Independence First amended AA does not describe its evaluation of whether Petitioner, with her conditions, could safely enter, ride, and exit a stair lift. No representative from Independence First appeared at the hearing. No

detailed information was provided about the adequacy of a proposed five-point harness, or whether Petitioner would be secure when taking off the harness while attempting to get into a lift sling. TMG argued that a stair lift was present at the former home, but Petitioner's mother credibly testified that it was used by her father and never by Petitioner (but was available if necessary for an emergency like a tornado). Based on the evidence before me, I agree with Petitioner that a curved stairlift is not a safe method of transport and is not a valid option for accessing the first floor.

Before turning to the VPL and elevator options, I also note that TMG confirmed at the hearing that it is no longer proposing a modified driveway for access to the first floor. I will not consider the option further.

VPL and Elevator Options

The Independence First AA recommended a VPL with enclosure due to cost-effectiveness. Petitioner asserts that a residential elevator would be no more expensive than a VPL. There are two proposed uses of a VPL: (1) a 1,000-pound capacity VPL that could hold Petitioner, her power wheelchair, and a caregiver, or (2) a 750-pound capacity VPL that Petitioner could use in a lighter transfer chair with a caregiver. The second use would require transfer equipment and a separate ride for the power wheelchair, if desired upstairs. A residential elevator could accommodate Petitioner with her power wheelchair and a caregiver. According to Joel Graf of Access Elevators, who appeared at the hearing, both a 750-pound and a 1,000-pound capacity VPL would require the construction of a shaft because the lift would be located indoors and penetrating through a floor, citing applicable Wisconsin building codes and ASME 18.1 standards.[2] Mr. Graf also testified that the cost of maintenance is the same for either a VPL or residential elevator ($400-500 annually through his company) and that major repairs are rare.

With either a VPL or elevator, a shaft is required. Petitioner's quotes for construction of the shaft are for an elevator and now quite aged (2023). But these are the only quotes available for comparison. No evidence was presented that construction of a shaft for a VPL would be meaningfully different in cost compared to one for an elevator. The lowest estimate was $49,550.00 but the vendor no longer does residential work. The next available quotes were for comparable amounts of $49,900.00 and $50,000.00. Petitioner produced fairly recent quotes for installation for both VPLs and a residential elevator. The lowest quote is for installation of either a VPL or elevator is $42,000.00 for a residential elevator (Wisconsin Elevator). Including an approximate cost for the shaft of $49,900.00, the total cost for a residential elevator would be $91,550.00, plus maintenance and repair. The lowest priced VPL (750-pound) is $42,312.00 (Garaventa), with a shaft would total $91,862.00. This estimate already exceeds the cost of the elevator *and* does not include the additional costs for necessary transfer equipment, which could be paid by IRIS if other payors deny coverage. For a higher-capacity VPL, the lowest estimate was $49,559.00 (Access Elevator), and with shaft construction would total $99,109.00, plus maintenance and repair. This option exceeds the cost of the elevator.

Cost of Maintenance & Repair

Petitioner's evidence suggests a range of annual maintenance of $400-650 annually for *either* a VPL or elevator. These figures are based on local quotes and the testimony of Mr. Graf. The maintenance costs are therefore comparable. The lowest quote for maintenance was from Wisconsin Elevator, who also supplied the lowest elevator quote. Neither party is able to provide a concrete estimate of major repair fees or the likelihood of major repair if regular maintenance is conducted. Local vendors, including Mr. Graf, state that regular maintenance cuts down on the likelihood of repair. The DHS denial notice cites a figure of $550-1,000 for an average repair, and a range for major repairs up to $4,500.00, from Fixr.com.

[2] Wis. Admin. Code SPS 318.1800 requires VPLs to comply with ASME 18.1.

I am unable to locate and verify this information. This estimate also appears fairly speculative. Without additional evidence, I am not persuaded that there is any material difference in the cost of repair or maintenance for either an elevator or VPL.

Based on the evidence presented, installation of a residential elevator with shaft is the most cost-effective option for providing access to the first floor. The Independence First AA did not recommend a residential elevator due to cost, but based on this evidence, a residential elevator is not more costly than the recommended VPL plus any necessary additional equipment. No representative from Independence First appeared at the hearing to better explain its conclusion that an elevator is more expensive. Neither DHS nor TMG offered much in terms of comparable quantitative information to counter Petitioner's thorough exploration of costs. TMG asserts that the quotes provided differ in specifications, such as with required pit depth. It is not unreasonable that specifications for certain brands and models of VPL or elevator vary based on differences in design. Note that variations in pit depth appear in quotes for *both* a VPL and elevator based on vendor and model. I do not find these variations to be a meaningful hinderance for DHS in comparing quotes. TMG also questions whether there may be concerns about structural engineering or the location of a lift in the garage. These issues would appear to apply to either a VPL or elevator. Further, I am not persuaded to disregard vendor quotes proposing to do the work simply because TMG poses hypothetical questions without further evidence of legitimate concern.

TMG argues that there is a conflict of interest in Equicy Group providing construction of the shaft due to some alleged family relationship to Petitioner. While this was the least expensive shaft quote, the next lowest price was only $100 more. If there remains a genuine concern about conflict of interest, selection of the next highest quote would not result in a meaningful increase in overall costs.

Petitioner also asserts various arguments in favor of an elevator due to safety concerns. Documentation from Petitioner's medical providers merely expresses the need for a lift with capacity for a caregiver, but Dr. John McGuire, MD, specifically addresses Petitioner's spasticity. His letter dated June 18, 2025, describes Petitioner as having involuntary, forceful, uncontrolled movements due to dystonia and spasticity which "significantly increases her risk for injury in small space environments, particularly when navigating vertical platform lifts." He expresses concern about the semi-open nature of VPLs (where there are partially open sides as the lift runs along the shaft) as not offering adequate containment or safety for a person of her level of motor instability. I have no reason to doubt the medical expertise of Petitioner's provider on this topic. TMG suggested that perhaps restraints could be used. This suggestion is not sufficiently persuasive to override the opinion of Dr. McGuire. Petitioner's evidence finds an elevator to be the least expensive option, but even if I were to consider the cost to be comparable for either an elevator or VPL, I find Petitioner's evidence for her specific need for an elevator to be persuasive, given her medical conditions.

Based on the evidence before me, Petitioner has met her initial burden in demonstrating that a residential elevator with shaft is required for Petitioner to safely and cost-effectively access the first floor of her home. This solution allows Petitioner to continue using her customized power wheelchair, avoid unnecessary transfers, and avoid potential injury. A residential elevator is not always the right solution for IRIS participants, and I understand the program's valid concerns about the availability of funds to all participants, but in this case, Petitioner has established that a residential elevator is cost-effective and best suited for her needs. To the extent to which new quotes are obtained for such work, DHS and TMG may elect to pursue the most cost-effective estimates for the elevator and shaft.

CONCLUSIONS OF LAW

The preponderance of the evidence in the record demonstrated that a residential elevator with shaft would meet Petitioner's need to safely and cost-effectively access the first floor of her home, and that a residential elevator with shaft is required for the health, welfare, and safety of Petitioner.

THEREFORE, it is ORDERED

That the matter is remanded to the Department and IRIS Consultant Agency to, within ten days of the date of this decision, (1) authorize a residential elevator with shaft and (2) issue a notice to Petitioner confirming the authorization.

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 30th day of October, 2025

\s_____
Wendy I. Smith
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 October 30, 2025.

Bureau of Long-Term Support
Attorney Lori Kornblum