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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

Case #: CWA - 216858

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 regarding IRIS / Medical Assistance (MA), a hearing was held on March 12, 2025, by telephone. The record was held open to allow Petitioner to submit additional medical documentation.

The issues for determination are: (1) whether the Department of Health Services properly determined that Petitioner is no longer functionally eligible for IRIS, and (2) whether the Department properly seeks to disenroll Petitioner from the IRIS Program.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Kathy Brechler, Functional Screen Lead, TMG
Bureau of Long-Term Support
PO Box 7851
Madison, WI 53707-7851

ADMINISTRATIVE LAW JUDGE:

Teresa A. Perez
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 65-year old resident of Milwaukee County. She resides by herself in an independent living apartment for seniors.
2. Petitioner's medical diagnoses include pruritic condition, multiple thyroid nodules, bipolar 1 disorder, hyperlipidemia, GERD, legal blindness which is progressive in nature, hypertension, Type 2 diabetes, and decreased mobility.
3. Petitioner has knee pain and some balance difficulties that cause her to sometime use furniture for support. Petitioner's limbs sometimes feel "trapped" but doctors have been unable to determine why. Petitioner also experiences pain in other parts of her body.
4. Petitioner has been enrolled in the IRIS program since October 2012.
5. Petitioner underwent a long term care functional screen ("LTCFS") in January 2024. At that time, Petitioner was found to require assistance with bathing, dressing, and toileting.
6. On December 13, 2024, Jonathan Kopplin, a Functional Screening Specialist, met with Petitioner in her home and reviewed her functional eligibility. On January 9, 2024, TMG completed a long term care functional screen (LTCFS) using the information gathered during the December 13, 2024 meeting with Petitioner and concluded that she no longer requires a nursing home level of care and is thus no longer eligible for IRIS.
7. On February 18, 2025, Ivana McDonald, a Functional Screen Liaison Supervisor, met with Petitioner in her home and reviewed Petitioner's functional eligibility again at Petitioner's request. On February 28, 2025, TMG re-ran the LTCFS using the information gathered during the February 18, 2025 meeting with Petitioner and again concluded that she no longer requires a nursing home level of care and that she is therefore no longer eligible for IRIS.
8. Petitioner bathes independently but uses a shower chair and grab bars.
9. Petitioner can independently dress, eat, ambulate in her apartment, toilet, and transfer. She does not use any durable medical equipment to complete these tasks. She does use a white cane with a red tip to navigate outside of her apartment due to her blindness. Because she is familiar with the layout of her home, she does not use her cane to ambulate there.
10. Petitioner requires assistance with grocery shopping. She can independently prepare simple meals, carry a plate of food from the kitchen to the table, and open jars and containers. She requires assistance reading expiration dates.
11. Petitioner requires assistance with completing certain chores (e.g., sweeping, mopping, dusting, dishes). She is independent with doing laundry but requires assistance to lay out her clothes so she knows that they match and that she is putting them on properly.
12. Petitioner can independently administer and manage her medications; manage her own bills and complete financial transactions; and use the telephone.
13. Petitioner is retired but has the capacity to learn job duties with training and reasonable accommodations for her visual impairment.
14. Petitioner does not have a cognitive impairment.
15. By notice dated January 16, 2025, TMG informed Petitioner that she no longer met the functional eligibility requirements to remain enrolled in IRIS and that she would therefore be disenrolled on February 1, 2025.

DISCUSSION

To be functionally eligible for IRIS program benefits, an individual must be a member of one of the following “target groups”: frail elderly; adult with a physical disability; or adult with a developmental disability, as that term is defined by 42 U.S.C. § 15002(8), and must also require a “nursing home” level of care. See *IRIS Policy Manual*, §2.1 at <https://www.dhs.wisconsin.gov/publications/p0/p00708.pdf> and DHA Case No. CWA-179794 (Div. of Hearings & Appeals April 5, 2017, adopted by Secretary on May 4, 2017) (DHS).

In this case, the agency contended that Petitioner no longer requires a nursing home level of care and is therefore not functionally eligible for IRIS.

Wis. Admin. Code §DHS 10.33(2)(c), set forth below, describes the nursing home level of care that is used in the Family Care Program. The same standard for determining nursing home level of care has been adopted in the IRIS Program as well. See DHA Decision Nos. CWA-165705, p. 3 (July 31, 2015) and CWA-198981, p. 3 (August 13, 2020).

A person is functionally eligible at the comprehensive level [i.e., nursing home level of care] if the person requires ongoing care, assistance or supervision from another person, as is evidenced by any of the following findings from application of the functional screening:

1. The person cannot safely or appropriately perform 3 or more activities of daily living.
2. The person cannot safely or appropriately perform 2 or more ADLs and one or more instrumental activities of daily living.
3. The person cannot safely or appropriately perform 5 or more IADLs.
4. The person cannot safely or appropriately perform one or more ADL and 3 or more IADLs and has cognitive impairment.
5. The person cannot safely or appropriately perform 4 or more IADLs and has cognitive impairment.
6. The person has a complicating condition that limits the person's ability to independently meet his or her needs as evidenced by meeting both of the following conditions:
 - a. The person requires frequent medical or social intervention to safely maintain an acceptable health or developmental status; or requires frequent changes in service due to intermittent or unpredictable changes in his or her condition; or requires a range of medical or social interventions due to a multiplicity of conditions.
 - b. The person has a developmental disability that requires specialized services; or has impaired cognition exhibited by memory deficits or disorientation to person, place or time; or has impaired decision making ability exhibited by wandering, physical abuse of self or others, self-neglect or resistance to needed care.

“Activities of Daily Living” or “ADLs” are, in turn, defined as bathing, dressing, eating, mobility, transferring from one surface to another such as bed to chair and using the toilet. Wis. Adm. Code §DHS 10.13(1m).

"Instrumental activities of daily living" or "IADLs" are, in turn, defined as management of medications and treatments, meal preparation and nutrition, money management, using the telephone, arranging and using transportation, and the ability to function at a job site. Wis. Admin. Code §DHS 10.13 (32). In addition, the LTCFS tool lists “Laundry and/or Chores” as an IADL. It is thus clear that the Department considers the performance of laundry and chores to be an additional IADL. This is consistent with federal Medicaid regulations which indicate that IADLs include the performance of essential household chores. See 42 C.F.R. § 441.505.

To assess an enrollee’s functional eligibility, IRIS consultant agencies are required to interview the enrollee (and sometimes other individuals, if needed) regarding their functional abilities and limitations. The information gathered is, in turn, entered into a computerized LTCFS developed by the Department of Health Services (“the Department”). The programmed logic in the LTCFS is then applied to the information input by the screener which generates a finding as to an individual’s level of care and functional eligibility. When entering information into the LTCFS, screeners must follow the Department’s *Wisconsin Long Term Care Functional Screen Instructions*.

Ivana McDonald, the screening liaison supervisor who met with Petitioner in February 2025 to review her functional eligibility for IRIS, testified at hearing and confirmed the accuracy of the information she entered into the LTCFS. The written narrative that Ms. McDonald included in the LTCFS was detailed, precise, and based on personal observation. Ex. C1.

Petitioner testified that she has chronic pain all over her body, that her health has not improved since she was found eligible for IRIS in 2012, that she has rheumatoid arthritis, that she has tunnel vision, that her mental health has been adversely affected by her chronic pain, and that she is “almost immobile.” Petitioner did not specifically dispute the agency’s findings regarding the tasks she can independently complete and those she needs assistance completing. See Findings of Fact Nos. 8 – 13.

Petitioner asked me to hold the record open so that she could submit additional medical documentation. I granted that request but nothing in the records she submitted corroborated her testimony regarding constant, chronic pain; being almost immobile; or having been diagnosed with rheumatoid arthritis. I do not doubt that Petitioner has pain but the evidence in the record, including her sworn testimony, did not clearly establish how that pain is affecting her ability to complete activities of daily living or instrumental activities of daily living.

Based on the evidence in the record, I find that Petitioner requires assistance with three instrumental activities of daily living (meal preparation and/or grocery shopping; laundry and/or chores; and transportation, as the agency also found. Unlike the agency, I also find that Petitioner, who uses a shower chair and grab bars when she showers, requires assistance with bathing (i.e., one activity of daily living). Pursuant to prior court decisions, the Division of Hearings and Appeals has consistently held that a person who requires durable medical equipment to perform an ADL, such as bathing, must be considered to require assistance with that ADL. *See* Deborah Boehm vs. Wisconsin Department of Health Services, No. 14-CV-10612 (Wis. Cir. Ct. Milwaukee County, Sept. 17, 2015); Joyce Jones vs. Wisconsin Department of Health Services, No. 14-CV-10707 (Wis. Cir. Ct. Milwaukee County, September 25, 2015); Final Decision FCP-169534 (September 7, 2016).

Because the evidence in the record established only that Petitioner requires assistance with one ADL and three ADLs, I am upholding the agency's finding, pursuant to Wis. Admin. Code §DHS 10.33(2)(c), which is quoted above.

Finally, I note that Petitioner's testimony that her health has not improved during the twelve years that she has received IRIS is credible. Absent recovery from a disease or injury or a markedly positive change in lifestyle, most people do not find that their functional abilities improve significantly with age. In other words, I can understand her surprise and frustration over losing eligibility for a program that she has relied on for more than a decade. However, as noted above, the medical records that she offered as evidence did not corroborate her testimony that she is "nearly immobile."

Based on the evidence in the record in front of me, I find that the agency has established that Petitioner is no longer functionally eligible for IRIS.

CONCLUSIONS OF LAW

- (1) TMG, agent for the Department of Health Services, properly determined that Petitioner does not require a nursing home level of care.
- (2) Petitioner is no longer functionally eligible for IRIS; the Department may therefore disenroll him from the IRIS program.

THEREFORE, it is

ORDERED

That Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 4822 Madison Yards Way, 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.

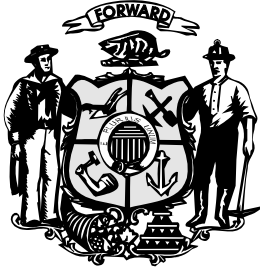
APPEAL TO COURT

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 9th day of May, 2025

\s _____
Teresa A. Perez
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 May 9, 2025.

Bureau of Long-Term Support