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

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In the Matter of

██████████  
██████████████████  
████████████████████

**DECISION**

Case #: CWA - 217677

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on March 26, 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 May 14, 2025, by telephone.

The issue for determination is whether respondent correctly terminated the petitioner from the IRIS program based on a finding he did not require a nursing home level of care.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

██████████  
██████████████████  
████████████████████

Petitioner's Representative:

Elizabeth Mamerow  
Disability Rights Wisconsin  
6737 West Washington St Suite 3230  
Milwaukee, WI 53214

Respondent:

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

By: Ivana McDonald  
Bureau of Long-Term Support  
PO Box 7851  
Madison, WI 53707-7851

**ADMINISTRATIVE LAW JUDGE:**

Jason M. Grace  
Division of Hearings and Appeals

## **FINDINGS OF FACT**

1. Petitioner is a 49 year-old resident of Milwaukee County.
2. Petitioner has medical diagnoses that include Diabetes, Hypocalcemia, Atrial Fibrillation, Stage D Heart Failure, Congestive Heart Failure, Aortic Aneurysm, Cardiomyopathy, Acute Hypoxemic Respiratory Failure, Acute Renal Failure, and Acute Kidney Injury.
3. On or about March 19, 2025, a Long Term Care Functional Screen (LTCFS) of Petitioner was completed by TMG. The screen determined the Petitioner needed assistance with the activities of daily living (ADLs) of Dressing. It also found he used adaptive equipment to complete the ADL of Bathing. The screen further determined the Petitioner requires assistance with the instrumental activities of daily living (IADLs) of Meal Preparation and Laundry/Chores. Petitioner was found to meet criteria for the Physical Disability target group but to be at a non-nursing home level of care.
4. By notice dated March 21, 2025, the Petitioner was informed that he was being terminated from the IRIS program because he was functionally ineligible as he did not require a nursing home level of care.
5. On March 26, 2025, the Petitioner filed an appeal with the Division of Hearings and Appeals.

## **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. IRIS Policy and Procedure (P-03515, 09/2023), found online at <https://www.dhs.wisconsin.gov/publications/p03515.pdf>.

In this case, TMG found that Petitioner does not require a nursing home level of care and is therefore no longer functionally eligible for IRIS.

To assess an individual’s functional eligibility, an extensive interview regarding his functional abilities and limitations is conducted. The assessment also entails a review of relevant collateral material, such as the applicant’s medical records. The information gathered from the assessment is then inputted into a computer program which ultimately determines the person’s functional eligibility and level of care. As noted previously by the Division of Hearings and Appeals (DHA), there are times when the logic or algorithm used by the computer program produces results that are at odds with the state regulations that govern the Family Care and IRIS programs. When such conflict is present, the regulations, not the computer program, control the outcome. See, DHA Case No. CWA-194921 (Wis. Div. Hearing and Appeals October 9, 2019)(DHS); DHA Case No. FCP-188090 (Wis. Div. Hearing and Appeals September 17, 2018)(DHS); DHA Case No. CWA-183951 (Wis. Div. Hearing and Appeals February 16, 2018)(DHS); DHA Case No. FCP-176611 (Wis. Div. Hearing and Appeals October 18, 2016) (DHS), and DHA Case No. FCP-197060 (Wis. Div. Hearing and Appeals February 10, 2020) (DHS).

Wis. Admin. Code § DHS 10.33(2)(c) defines nursing home level of care as the following:

A person is functionally eligible at the comprehensive level 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.

*Emphasis added.*

Activities of daily living refer to “bathing, dressing, eating, mobility, transferring from one surface to another such as bed to chair and using the toilet.” Wis. Admin. Code, § DHS 10.13(1m). “Instrumental activities of daily living” are 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 10.313(32). The LTCFS report also includes as an IADL “Laundry and/or Chores.” This indicates Department policy is to include the performance of laundry and chores as a separate IADL. Moreover, Federal Medicaid regulations include the performance of essential household chores within the definition of IADLs. See, 42 C.F.R. § 441.505. The DHA has previously issued decisions recognizing that laundry and chores are an IADL for purposes of determining level of care. See, DHA Case No. CWA-194921 (Wis. Div. Hearing and Appeals October 9, 2019)(DHS); DHA Case No. FCP-192455 (Wis. Div. Hearing and Appeals April 10, 2019)(DHS); DHA Case No. FCP-188090 (Wis. Div. Hearing and Appeals September 17, 2018)(DHS); and DHA Case No. FCP-176611 (Wis. Div. Hearing and Appeals October 18, 2016) (DHS).

Based on the record at hearing, specifically the LTCFS, Petitioner falls within the target group of physical disability. The record demonstrates, and the Respondent’s own LTCFS’s conclude, that Petitioner needs assistance with the ADL of dressing and uses an adaptive aid for the ADL of bathing. The LTCFS also indicates that the Petitioner needs assistance with the IADLs of meal prep and laundry/chores.

The use of adaptive aids has been determined to be the equivalent to requiring human assistance and therefore is sufficient to find that the Petitioner requires assistance with the related ADL. See DHS Deputy Secretary Final Decision FCP-169534 (Sept. 7, 2016); DHA Decision Case No. 178455 (April 13,

2017); DHA Decision Case No. CWA-181224 (Aug. 3, 2017); DHS Deputy Secretary Final Decision FCP-191012 (Feb. 15, 2019); DHA Decision Case No. CWA-196041 (Jan. 2, 2020); and DHA Decision Case No. FCP-211106 (Jan. 23, 2024).

Therefore, I conclude that the Petitioner qualifies for a nursing home level of care under the criteria of DHS 10.33(2)(c)2 because he requires assistance with 2 ADLs (bathing and dressing) and 2 IADLs (meal prep and laundry/chores).

Although the screening personnel followed their DHS instructions correctly, the conclusion relating to level of care was incorrect under the Code. Based upon the above, I find that the Petitioner requires a nursing home level of care according to the Wisconsin Administrative Code provisions, and continues to be functionally eligible for the IRIS program. As such, I will remand this matter to the Respondent to rescind the notice of IRIS termination.

### **CONCLUSIONS OF LAW**

1. Petitioner requires a nursing home level of care.
2. The Respondent incorrectly found that the Petitioner was functionally ineligible for IRIS and terminated his enrollment in the IRIS program.

**THEREFORE, it is**

**ORDERED**

The matter is remanded to the Department / TMG with instructions to rescind the March 21, 2025 Notice of Action and to revise its records to reflect Petitioner's continuing eligibility for IRIS at a nursing home level of care. The Department / TMG shall fully comply with these instructions within ten (10) days of the date of this decision.

### **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, 5<sup>th</sup> 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**

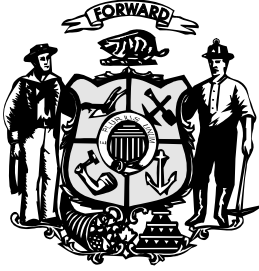
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 June, 2025

\s\_\_\_\_\_  
Jason M. Grace  
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 June 9, 2025.

Bureau of Long-Term Support

