



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: CWA - 217836

PRELIMINARY RECITALS

Pursuant to a petition filed on April 10, 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 20, 2025, by telephone.

The issue for determination is whether the agency correctly disenrolled the petitioner from the IRIS program as of April 22, 2025.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703
By: Angela Sutherland, TMG
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 is a 33 year old resident of Milwaukee County. His medical diagnoses include Asperger Syndrome, bipolar disorder, depression, ADHD, ADD, oppositional defiant disorder of childhood or adolescence, dyslexia, and a seizure disorder. He has been enrolled in the IRIS program for the past 7 years.
2. The petitioner's parents are his co-guardians. His father is his primary caregiver under the IRIS program.
3. The petitioner had his most recent long term care functional screen (LTCFS) on January 15, 2025.
4. During the 2022 – 2023 budget year, the petitioner overspent his budget by \$11,071.91. During the 2023-2024 budget year, the petitioner overspent his budget by \$7,616.16.
5. The petitioner's annual IRIS budget for the budget year 10/1/24 – 9/30/25 was \$17,159.34, of which, \$16,159.34 was devoted to supportive home care (SHC). He was approved for 25 hours of SHC per week for a total of 1,300 hours of SHC per budget year.
6. On September 5, 2024, the petitioner's guardian signed his annual IRIS Individual Support and Services Plan (ISSP) and participant education manual agreement acknowledging their understanding of the self-direction responsibilities, preventing budget mismanagement and fraud, and monitoring budget and building the plan documents.
7. On July 9, 2024, the IRIS Consultant (IC) met with the petitioner's guardian to discuss the overspending. At that time, the family was billing for 36 to 48 hours per week of SHC hours, rather than the 25 per week that the petitioner was approved for. The IC provided counseling and education regarding the overspending. The petitioner's guardian agreed to a reduction of the petitioner's SHC hours going forward down to 13 hours per week to ensure the annual budget would not be overspent.
8. On December 17, 2024, the IC met with the petitioner's guardian during a home visit and again discussed the overbilling of supportive home care hours and overspending of the petitioner's budget. At that time the family had been submitting timesheets for 39-54 hours per week of SHC. The petitioner's guardian and the IC signed a Risk Agreement, and the guardian agreed to reduce the number of SHC hours that were being billed going forward.
9. The petitioner's family continued to overspend the budget and bill more than 25 hours per week in SHC in January and February 2025.
10. On April 7, 2025, the IRIS Consultant Agency (ICA) issued a notice that his IRIS benefits would be terminating as of April 22, 2025.

DISCUSSION

The IRIS program is a Medicaid 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 *Waiver* states that the following are reasons a participant may be involuntarily disenrolled from IRIS:

1. Failure to utilize IRIS funding (not spending funds in the budget);
2. Loss of financial eligibility, including falling into cost share arrears;
3. Loss of functional eligibility, including expiration of long-term care functional screen;
- 4. Mismanagement of Budget Authority responsibilities (misappropriation of funds);**
- 5. Mismanagement of Employer Authority responsibilities;**
6. Unable to contact for an extended period of time;
7. Health and safety cannot be assured;
8. Substantiated fraud;
9. Movement to an ineligible living setting; and
10. Material noncompliance with IRIS program requirements outside of reasons above.

(Emphasis added.) *Waiver*, p. 202.

The IRIS agency seeks to disenroll the petitioner due to mismanagement of his budget, mismanagement of his employer authority, and continually overspending his IRIS budget.

At the hearing, the petitioner's guardian testified that she had initially believed that the petitioner was approved for 50 hours per week of SHC; however, the approval had been for 50 hours of SHC per biweekly pay period. She also stated that 25 hours of SHC was insufficient to meet the petitioner's needs for care and assistance. Finally, the petitioner's guardian testified that she knew that she had been overspending the SHC budget; however, she believed when the funds ran out, the caregiver (her husband) would stop receiving payment for his hours.

According to the Fiscal Employer Agent (FEA) iLIFE records, the petitioner started overspending in the 2022-2023 plan year, continued for 2023-2024, and into 2024-2025 (Agency's Exhibit E). For 2022-2023, he overspent \$11,071.91, for 2023-2024 the overspending came to \$7,616.16, and for the first five months of the 2024-2025 plan year, it was \$2,950.10. In total, the budget overspending came to \$21,638.17.

The *IRIS Program Enrollment Manual* (P-03547) requires that in situations involving the misappropriation of IRIS funds or mismanagement of employer authority, the ICA must have

documentation to show its attempts to provide education and assistance to the participant regarding the issue.

Remediation/Documentation Required: The ICA must provide documentation of their attempts to support the participant's budget authority skills over the course of the participant's enrollment.

Examples of documentation include case notes discussing the participant's IBA, and their budget authority responsibilities, participant education forms, and other self-direction education materials.

IRIS Program Enrollment Manual (P-03547), Section 2(a)(v) and (vi). The IRIS agency had discussions with the petitioner's guardian about the overspending on 7/9/24, 12/17/24, 1/16/25, 2/24/25, and 3/14/25. These discussions included education and counseling, as well as remediation strategies to bring the spending back in alignment with the budget. The agency also completed a Risk Agreement with the petitioner's guardian in December 2024. Documentation provided by the agency reflects that the agency did its due diligence in attempting to educate the petitioner's guardian regarding the overspending so that the issue could be remedied.

Participants in the IRIS program must follow all rules and policies under the Waiver and in the IRIS policy manuals. If the petitioner needed additional SHC hours, his guardian should have made a request through his IC, who could have submitted a Budget Amendment request to the Dept. of Health Services for approval. The agency representative testified at the hearing that it was not aware that the 25 hours per week of SHC was insufficient to meet the petitioner's needs as a request for additional hours had not been received. The petitioner's guardian testified that she had asked the functional screener for an increase in SHC hours as she knew that the general allocation of hours is derived from the screen logic. She also testified that the screen does not capture a true view of her son's needs. Nevertheless, overspending the IRIS budget and allocation of SHC hours was not an appropriate remedy.

The IRIS program allows for self-direction, but with that flexibility comes more responsibility for the participant to understand the rules of the program and navigate a complex system. Participants in the IRIS program have a duty to ensure that they are staying within their budget, and only authorizing services that are within their ISSP. In this case, the petitioner's guardian was made aware of the overspending many times over the course of eight months and yet continued to overbill for supportive home care hours. Additionally, a Risk Agreement was completed in December 2024, to ensure the petitioner's guardian understood the severity of the issue. Despite the agency's repeated attempts to educate the petitioner's guardian and remediate the situation, the budget overspending continued. Therefore, disenrollment from the IRIS program is appropriate.

CONCLUSIONS OF LAW

The agency correctly disenrolled the petitioner from IRIS as of April 22, 2025.

THEREFORE, it is

ORDERED

The petition for review is hereby 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.

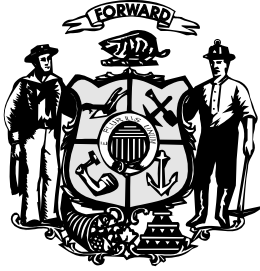
APPEAL TO COURT

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 1st day of July, 2025

\s _____
Kate J. Schilling
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 July 1, 2025.

Bureau of Long-Term Support