



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION
Case #: CWA - 218425

PRELIMINARY RECITALS

Pursuant to a petition filed on May 23, 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 July 8, 2025, by telephone.

The issue for determination is whether the agency correctly terminated IRIS coverage of the petitioner's facility-based prevocational services.

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: Helen Isidoro, 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 (CARES #) is a 39 year old resident of Vernon County. He has been receiving long-term care supports through the IRIS waiver program since 2022.
2. The petitioner's medical history includes an intellectual disability. According to his most recent long-term care functional screen on March 4, 2025, he requires assistance with 3 activities of daily living (ADLs) and 4 instrumental activities of daily living (IADLs). He also requires assistance and support managing self-injurious behaviors.
3. The petitioner's Individual Support and Services Plan (ISSP) for June 1, 2025 through May 31, 2026, reflects a total budget of \$50,949 plus a budget amendment of \$12,216. He receives supportive home care, group supported employment (seasonal), and facility-based prevocational services.
4. The petitioner has attended the [REDACTED] as facility-based prevocational skills programming for 15 years. He does not have a plan goal for community-integrated employment.
5. On March 17, 2025, the IRIS Consultant Agency (ICA) issued a Notice of Action to the petitioner which stated that he no longer qualified for pre-vocational services covered by the IRIS program as of June 1, 2025.

DISCUSSION

The IRIS program is a Medicaid long term care waiver program that serves older adults and adults with physical and developmental disabilities. IRIS is an alternative to Family Care, Partnership, and PACE—all of which are managed long term care waiver programs. The IRIS program, in contrast, 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, *Medicaid Eligibility Handbook* §28.1, et. seq., and 42 C.F.R. §441.300, et. seq.

The Department of Health Services 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, IRIS consultant agencies, IRIS fiscal employer agents, and income maintenance agencies.

The IRIS waiver application most recently approved by the Centers for Medicare and Medicaid Services (CMS) is available on-line at <https://www.dhs.wisconsin.gov/iris/hcbw.pdf>. See *Application for 1915(c) HCBS Waiver: WI.0484.R03.00 - Jan 01, 2021*. 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>), *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>).

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. Relevant program policy provides:

The individual budget calculation for IRIS is based upon characteristics, and long-term support needs as collected on the Long-term care Functional Screen (LTC FS). A profile of the individual is developed based upon this information and that profile will be used to determine the projected cost of services and supports for that individual if he or she were enrolled in Family Care. Only services that are included in the IRIS Waiver are included in this calculation. The prospective participant will know this budget amount when deciding whether to participate in IRIS or another Long-term care Program.

IRIS Policy Manual, Sec. 5.3. With the assistance of an IRIS Consultant Agency (ICA), participants identify waiver allowable services that they need to meet their long term care outcomes. The cost of those services must fall within the budget estimate. *IRIS Policy Manual*, Sec. 5.3A. If a person's budget is insufficient to meet the needs of the IRIS participant, a budget amendment (BA) or one-time expense (OTE) request is able to be made to the budget. See *Waiver*, Appendix C-4.

At issue here is the termination of facility-based prevocational services that the petitioner has attended for the past 15 years. There was no dispute that prevocational services are part of the IRIS benefit package.

The IRIS Wavier provides the following guidance as to prevocational services:

Prevocational services are services that provide learning and work experiences, including volunteer work, where the participant can develop general, on-the-job-task-specific skills that contribute to employability within paid employment in integrated community settings. Prevocational services should be provided in the most integrated setting preferred by the participant, and may be provided in a variety of community locations. **Participants receiving prevocational services must have integrated employment related goals with clearly defined benchmarks in their participant-centered services and support plan;** the general habilitation activities must be designed to support such employment goals. Competitive integrated employment is considered to be the successful outcome of prevocational services.

... These services develop and teach general skills that lead to employment including, but not limited to ability to communicate effectively with supervisors, co-workers and customers; generally accepted community workplace conduct and dress; ability to follow directions; ability to attend to tasks; workplace problem solving skills and strategies; general workplace safety and mobility training. Participants who receive prevocational services during some days or parts of days may also receive supported employment, educational, or day services at other times.

....

Prevocational services occur over a defined period of time and with specific outcomes to be achieved, as determined by the participant and their IRIS Consultant through an ongoing participant-centered planning process and only until integrated community employment can be obtained. **Employment related outcomes are a part of the participant centered planning process, which is a participant-directed process and must include identifying the participant's long-term employment goals.** Participants must receive the necessary tools, resources, and information to make an informed decision relative to choosing supports and services, including integrated employment, to meet their employment outcomes. ...

Participation in prevocational services is not a required pre-requisite for supported employment services.

...

This service category **excludes** the following:

- **Services provided in sheltered workshop settings, where individuals are supervised for the primary purpose of producing goods or performing services;** and
- Services that do not contribute to the participant's work experience, work skills, or work-related knowledge that leads to paid integrated employment in the community.

Prevocational services may only be funded through the waiver when otherwise not available through the State Plan, Medicare, or a responsible private or public entity. This service may not duplicate any service that is provided under another waiver service category, such as supported employment or day services.

(Emphasis added.) *IRIS Waiver*, pg. 68-69. Consistent with the Waiver, the IRIS Policy Manual provides the following related to prevocational services:

As authorized by CMS through the approved 1915(c) HCBS Waiver, pre-employment training services are included in the IRIS waiver benefit package in an effort **to prepare individuals for integrated employment work experiences**. Service types include prevocational services, day services, and Project SEARCH. These service types “should be designed to create a path to integrated community-based employment ... **For prevocational services to be added to a participant’s plan, the participant must indicate and document a goal of competitive, integrated employment. Prevocational services are time-limited, and the DHS reserves the right to request progress reports from ICA’s and/or providers of prevocational services on an ongoing basis.** If the DHS determines that reasonable progress towards an integrated employment outcome is not being accomplished, then the DHS reserves the right to de-authorize that service or provider from a participant’s plan. ...

(Emphasis added.) *IRIS Policy Manual* § 5.9D

The Department has a responsibility to implement the IRIS program in a fiscally sound manner; wisely and responsibly respecting the use of public dollars. *IRIS Policy Manual* 1.1D and 5.6A.4. This is balanced with the program’s design to provide IRIS participant’s choice, control, and freedom to design supports and service plan to meet their functional, vocational, medical, and social needs. *IRIS Policy Manual* 1.1. The plan must also comply with all IRIS program rules and the waiver policies.

The Department’s representative at hearing was an employee of the IRIS Consultant Agency (ICA). It is the Department and not the ICA that makes decisions regarding termination of services, but the ICA is charged with the responsibility of representing the Department at hearings.

The petitioner’s guardian confirmed at hearing that community-integrated employment was not a goal for the petitioner. There was nevertheless a continued desire to have the petitioner attend the [REDACTED] prevocational program as it has provided him an opportunity to spend time outside the home and develop a sense of self-worth. The petitioner’s guardian testified that the petitioner considers [REDACTED] to be his job, he is proud of the work that he does at [REDACTED], and that he is upset that he can no longer attend [REDACTED].

As petitioner has had prevocational services part of his IRIS plan for approximately three years, it is a time-limited service, and the petitioner does not have a goal of community-integrated employment, I am not able to find any error by the IRIS agency or the Department in its termination of prevocational services. I understand the petitioner's desire to remain enrolled in the [REDACTED] prevocational program. I do not doubt that he enjoys the work, and the termination of his prevocational services has been a disruption to his routine. However, the agency has established that it has correctly applied IRIS policy pertaining to the petitioner's eligibility for prevocational services.

While I understand that the petitioner may find this decision unfair, the relevant IRIS policies on this matter are clear, and there is no discretion or authority for me to make an exception. I do not have equitable powers and cannot make a determination outside of the stated policy criteria. "An agency or board created by the legislature has only those powers which are expressly or impliedly conferred on it by statute. Such statutes are generally strictly construed to preclude the exercise of power which is not expressly granted. [citation omitted]" *Browne v. Milwaukee Board of School Directors*, 83 Wis.2d 316, 333, 265 N.W.2d 559 (1978). As an administrative law judge, I do not have authority to render a decision on the basis of fairness or equity.

CONCLUSIONS OF LAW

The agency correctly terminated the petitioner's prevocational services as there is no goal for community-integrated employment.

THEREFORE, it is

ORDERED

That 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

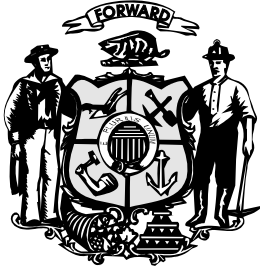
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 11th day of August, 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 August 11, 2025.

Bureau of Long-Term Support