



FH

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

In the Matter of

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

DECISION
Case #: CWA - 218438

PRELIMINARY RECITALS

Pursuant to a petition filed on May 28, 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 August 26, 2025, by telephone. Hearings scheduled for July 9, 2025 and July 23, 2025, were rescheduled at the request or consent of the petitioner and/or his representative.

The issue for determination is whether the respondent correctly terminated the petitioner's IRIS 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: Melody Melm
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 resident of Richland County. He is enrolled in the IRIS program, with TMG his IRIS consultant agency.
2. Petitioner's most recent Long-Term Care Functional Screen indicates he meets the physical disability and developmental disability per FEDERAL definition target groups. He has diagnoses that include Intellectual Disability, Cerebral Palsy, Generalized Idiopathic Epilepsy, not intractable, without status epilepticus, Roussey-Levy syndrome, Hyperlipidemia, Parkinsonism, Ankle Weakness, Muscle Wasting and Atrophy, Exertional Dyspnea, Anxiety Disorder, and Obsessive Compulsive Disorder, unspecified. He requires assistance with 4 Activities of Daily Living (ADLs) including bathing, dressing, mobility, and toileting. He also requires assistance with 5 Instrumental Activity of Daily Living (IADLs), including medication administration and management, meal prep, money management, laundry and chores, and transportation. He also requires overnight supervision, works and needs assistance every day, has a guardian, and mental health needs.
3. The petitioner's ISSP includes SHC, companion care, and facility-based prevocational services through [REDACTED].
4. [REDACTED] is contracted to provide prevocational services in a sheltered workshop.
5. The petitioner has had prevocational services on his IRIS plan since April 2011.
6. The IRIS consultant agency conducted a review to determine the appropriate course of action regarding petitioner's continued use of prevocational services as part of his IRIS plan. It was found disenrollment from the service was appropriate as there was insufficient progress in finding community employment and that the service was intended to be short-term.
7. By notice dated May 20, 2025, petitioner was informed that his Provocation Services was being terminated effective June 4, 2025. The notice provided the following grounds, in part:

... The goal of prevocational services is integrated employment. However, this has not been successfully achieved within a reasonable timeframe. Your IC has discussed DVR and you are also utilizing that service.

According to IRIS policy, prevocational services is an allowable service. However, one of the exclusions [sic] from this service category is "services provided in sheltered workshop settings". Your IC confirmed this is a sheltered workshop setting.

This change should not have a negative impact on your health, safety, current goals, and long-term care needs, based on information provided. Therefore, Prevocational services will be terminated from your plan. ...
8. The petitioner appealed.

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>).

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 14 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 should involve strategies that enable the participant to attain the highest possible wage and level of work in the most integrated setting that aligns with the participant's interests, strengths, priorities, abilities, and capabilities, while following applicable federal wage guidelines. 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. This must occur annually and be documented in the participant's record. If the individual has not successfully achieved and maintained integrated employment within two years, although demonstrable, reasonable and continued progress has been made, the participant and IRIS consultant determine what actions have successful or unsuccessful and develop a new action plan.

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

Prevocational service providers offering compensated work must be in accordance with applicable Federal laws and OSHA health and safety regulations, which prohibit unpaid contract work or engaging in training that involves doing unpaid contract work.

...

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.

As noted above by the relevant IRIS policy, prevocational services is meant to be time-limited to achieve the goal of integrated employment. The petitioner has had prevocational services as part of his IRIS plan for 11 years now and he has not achieved the goal intended for the service. Moreover, the prevocational services [REDACTED] provides petitioner fall within an exclusion. Under IRIS policy, prevocational services provided in a "sheltered workshop setting" are excluded. The Department and TMG indicate that [REDACTED] provides petitioner prevocational services in a workshop setting.

The petitioner submitted communication from [REDACTED], Assistant Director of Client Services for [REDACTED], that indicated [REDACTED] was not a sheltered workshop for the petitioner even though it is contracted to be one. See Petitioner's Exhibits, pg. 12. Ms. Dersham indicated in that communication that by definition a sheltered work shop is a segregated work environment and [REDACTED] is not segregated. Id. [REDACTED] did not testify and her email did not cite the source of her definition of a sheltered workshop. The record was held open to allow petitioner's representative an opportunity to forward the applicable definition. That representative cited to Wis. Admin. Code, § DHS 61.40 (sheltered employment and work activity services). I found no support in that provision for the conclusion that a sheltered workshop requires a segregated work environment.

Wisconsin Stats. § 104.01(6) defines "sheltered workshop" as the following:

... a charitable organization or institution conducted not for profit, but for the purpose of carrying out a recognized program of rehabilitation for workers with disabilities and of providing workers with disabilities with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature.

Similarly, Wisconsin Admin. Code, DWD 272.09(1)(g) defines sheltered workshop as:

a rehabilitation facility which is a charitable organization or institution conducted not for profit, but for the purpose of carrying out a recognized program of rehabilitation for workers with disabilities providing such individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature.

Based on the record, [REDACTED] is contracted to be a sheltered workshop and is providing petitioner prevocational services in a sheltered workshop setting. As IRIS policy specifically excludes this service from being provided in such a setting, and given that the petitioner has not progressed to integrated employment in the 11 years he has had prevocational services on his IRIS plan, I am not able to find error by the respondent in its termination of prevocational services from the petitioner's IRIS plan.

CONCLUSIONS OF LAW

The respondent established that it was authorized by IRIS policy to terminate the petitioner's prevocational services.

THEREFORE, it is

ORDERED

That the 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.

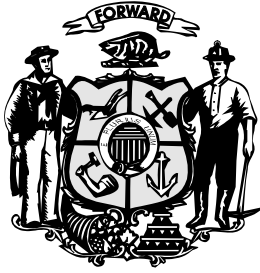
APPEAL TO COURT

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 18th day of September, 2025

\s _____
Jason M. Grace
Administrative Law Judge
Division of Hearings and Appeals



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The preceding decision was sent to the following parties on September 18, 2025.

Bureau of Long-Term Support