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STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION
Case #: CWA - 218862

PRELIMINARY RECITALS

Pursuant to a petition filed on June 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 29, 2025, by telephone.

The issue for determination is whether the agency erred in its action to disenroll petitioner from the IRIS program.

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:

Jason M. Grace
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County. He is enrolled in the IRIS program, with TMG his IRIS consultant agency.

2. The Petitioner's parents are his guardians, who direct his IRIS services and benefits.
3. Petitioner's most recent Long-Term Care Functional Screen (LTCFS) indicates that he meets the physical disability and developmental disability target groups. His medical diagnoses include Hemiparesis-right side, CVA, Peripheral Blindness-right side, Moderate Intellectual Disability, Seizures with onset before age of 22, Esophageal Reflux, Chronic Constipation, Hyperlipidemia, Obesity, Osteoporosis, Insomnia, and Convulsions.
4. The Petitioner requires hands on care for all 6 Activities of Daily Living (ADLs), including bathing, dressing, eating, mobility in home, toileting, and transferring. He also requires assistance for all 6 Instrumental Activities of Daily Living (IADLs), including meal prep, medication administration, money management, laundry/chores and transportation. He requires assistance with overnight care, has a guardian and support broker, and experiences behaviors that require intervention. The Petitioner primarily uses a wheelchair for mobility.
5. The current Individual Support and Services Plan (ISSP) is divided among Supportive Home Cares (SHC), Companion Cares (CC), Overtime Cares, Community Transportation, Support Broker (currently Petitioner's father), Specialized Medical Supplies, CPR classes, and Prevocational Services.
6. Under the ISSP, the Petitioner is authorized for 40 hours of SHC (provided by his mother), 16 hours of Overtime, 52.25 hours of SHC (provided by several caregivers), and 4 hours of Companion Cares per week. He also is authorized for 69.5 hours per week of self-directed personal care services that is funded by Medicaid. This totals 181.75 hours of cares each week, allowing for overlapping of cares as there is 168 hours in a week.
7. The Petitioner has long-term care outcomes that include living in his own home and going into the community on a regular basis. He owns a condo that has been modified to be fully accessible. The Petitioner has not lived in his condo for at least a year as he has not had sufficient staff coverage to ensure his health and safety in that setting.
8. The IRIS consultant agency has proposed the option of using an agency to staff Petitioner's care needs and his guardian(s) have declined that option, instead electing to self-direct the employment of care workers.
9. Petitioner's mother has reported to the IRIS consultant agency on multiple occasions that she and her husband are not able to provide personal care services for Petitioner due to their own health issues.
10. Petitioner's most recent LTCFS notes that he "resides in the home of his parents which is not adequately equipped to handle his needs including inability to get into the tub safely for a bath, use the toilet, or exit the home without safety risk."
11. The Case Notes from the IRIS consultant agency document remediation efforts involving the discussion of utilizing Adult Family Homes, agencies for both Supportive Home Care and Personal Care, options counseling for a program that might be a better fit for your needs, and bringing in other supports to help out either temporarily or permanently.

12. By notice dated June 11, 2025, the Petitioner was informed he was being involuntarily disenrolled from the IRIS program, effective June 26, 2025. The notice set forth the following grounds, in part:

.... In accordance with IRIS Enrollment policy D.2.a.iii Program Requested Disenrollment, participants may be involuntarily disenrolled from the IRIS program when there are health and safety risks that participants are unable or unwilling to resolve. In accordance with IRIS Enrollment policy D.2.a.v and D.2.a.vi Program Requested Disenrollment, participants may be involuntarily disenrolled from the IRIS program when there has been mismanagement of Budget Authority or mismanagement of Employer Authority. In accordance with IRIS Enrollment policy D.2.a.viii Program Requested Disenrollment, participants may be involuntarily disenrolled from the IRIS program when a participant refuses to perform responsibilities of self-direction or complete program requirements, as defined by participant education materials and program policies.

There are several health and safety concerns associated with your guardian and caregivers taking care of you at this time due to their inability to self-direct within the IRIS program. Your guardians are facing health issues due to aging which hinders their ability to care for you at home.

On 12/3/2024, 12/4, 12/9, 4/3/2025, and 5/6, [[your mother] expressed that she is unable to adequately care for you because she and [[your father] are ill. She has asked what she should do in there is a medical emergency and no one to care for you, despite having several caregivers and a documented backup plan on record. On 12/3/2025, she stated to IRIS staff that she is no longer able to care for you. On 12/4, IRIS Staff discussed some options such as managed care to assist on a short term basis, hire an agency for cares, consider an adult family home, and/or have you move back to your fully accessible home. Your guardian denied all these options. On 4/3/2025, [[your mother] stated that she cannot train new workers because she is sick, and she is not able to show them how to get you out of bed because of her weakness and her husband's medical emergency that left him unable to assist. On 5/6, she stated that she is unable to care for you now that she had to care for her husband. She has refused to relocate you back to your accessible condo that is suitable for living with caregiver assistance. You are left in a home that is inaccessible to you and poses health and safety risks to yourself and others.

In December 2024, DRW discussed concerns with you and IRIS staff about [[your mother and father's] inability to self-direct. DRW provided them with resources for agencies, Adult Family Homes, and options counseling, all of which were declined as solutions.

Additionally, there are concerns about mismanagement of employer authority including that [[you mother] routinely lacks the ability to demonstrate she can have workers fill out paperwork and she requires a large amount of assistance from both IRIS and iLIFE staff, which is not what a self-directed program is meant for. She has sent multiple workers to the IRIS Consultant to discuss job duties and get paperwork started, rather than use her employer responsibilities to do so. On 1/7/2025, [[your mother] advised the IRIS Consultant that she was advertising for workers and gave them the Consultant's information in order to contact TMG versus herself, as she is the employer. There is a consistent pattern

of [[your mother] not demonstrating understanding her role as the employer on record and issues with assisting you and the ability to self-direct. 45 of 58 recent case notes in the IRIS system identify issues pertaining to the submission of participant hired worker paperwork having errors. Numerous notes indicate that multiple applications required extensive work in order to be correctly submitted for entry and hire, despite [[your mother] routinely stating that everything was corrected.

Currently there are 6 approved workers, which includes [[your mother]. There are an additional 39 other workers that have either been terminated since 2020 or do not show current authorizations. This is not the full list of hired workers. There are two non-live in workers who are providing overtime for Supportive Home Cares and it has been reported to TMG and iLIFE that [[your mother] has not instructed them of their right to overtime pay hours above 40 per week. This concern is being reviewed. Additionally, she has not brought this to the attention of TMG and has not received approval for overtime pay before having them work over 40 hours. Your budget does not support overtime hours and there are enough workers to cover authorized cares. Additionally, there are previous concerns of a history of overbilling and authorizing overtime when it is not supported. Current examples include worker Glenn completing 48 hours for the pay period on 4/30/2025 and another worker Maria not following Electronic Visit Verification guidelines for punching in and out and is not even attempting to use it. [[your mother] does not demonstrate understanding her role as the employer and has missed annual Medicaid renewals twice, leaving you without the IRIS program for periods of time and having to go to hearing to try and backdate enrollments (one was backdated, the other was not).

Finally, the current Back Up Plan (BUP) on file is not meeting program requirements for a safe plan of care. There are not 2 people on the plan who can work in an emergency. The people on the plan are caregivers that no longer provide services to you and are unable to do so because of their own health reasons. On 5/29/2025, the IRIS Consultant discussed this with [[your mother] who confirmed that there is no one in the Milwaukee area who can help and could not provide names of anyone who could be added in the case of an emergency.

IRIS Staff and DRW have had many conversations with [[your mother] about all of these concerns, specifically health and safety issues and have given her options on how to resolve them. Many of the options include resources such as utilizing Adult Family Homes, agencies for both Supportive Home Cares and Personal Cares, options counseling for a program that might be a better fit for your needs, bringing in other supports to help out either temporarily or permanently, programs, employment, and moving you back to your condo. Due to the expressed concerns from your guardian, the IRIS program is no longer a good fit for you and education options have been exhausted as every suggestion has been refused.

13. The Petitioner timely appealed.

DISCUSSION

The IRIS program is a Medical Assistance (MA) home and community-based long term care waiver program authorized under §1915(c) of the Social Security Act. See also, 42 C.F.R. §441.300, et. seq. IRIS is an alternative to Family Care, Partnership, and PACE—all of which are managed care 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 waiver approved by the Centers for Medicare and Medicaid Services (CMS) which proves the IRIS program’s authority is available at <https://www.dhs.wisconsin.gov/iris/hcbw.pdf>. 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>) and *IRIS Work Instructions* (available at <http://www.dhs.wisconsin.gov/publications/P0/P00708a.pdf>).

The waiver requires IRIS Consultant Agencies (“ICAs”) to monitor health and safety as part of service planning, to try to eliminate health and safety concerns, when they arise, in partnership with the participant, and to disenroll participants when health and safety concerns remain despite remediation efforts. Specifically, the waiver provides:

Regular meetings . . . provide the opportunity for the [IRIS Consultant] to monitor the participant’s back-up plan and health and safety. ICs may mitigate risk of threats to health and safety by connecting participants with resources for addressing their own health and safety risks. . . If the participant refuses, or is unable, to address his or her own health and safety, or refuses the assistance of the IRIS Consultant, the IRIS Consultant has the responsibility to recommend involuntary disenrollment.

Application for a 1915(c)Home and Community Based Services Waiver WI.0485.R01.00, Appendix D-2a.; see also Appendix E-1m. and Appendix D-1e. The waiver also provides for involuntary disenrollment due to mismanagement of budget authority responsibilities, mismanagement of employer authority responsibilities, and material noncompliance with IRIS program requirements. Id at E-1m.

The waiver notes that the IRIS participant and consultant agency is to develop a back-up plan (BUP) as a means of mitigating risk. Id at Appendix D-1. The BUP must contain the following components:

- a. Medical needs;
- b. Behavior needs;
- c. Medication and medical equipment needs;
- d. General overview of the participant’s daily schedule;
- e. Contact information for emergency back-up providers;
- f. Contact information for service providers including medical providers and the IRIS Consultant; and
- g. Other pertinent participant-specific information.

The participant and the IRIS Consultant continuously review the accuracy and effectiveness of the back-up plan, and participants are responsible for notifying the IC of any changes that may impact the back-up plan.

Id.

Consistent with the above-quoted waiver language, IRIS program policy issued by the Department of Health Services includes the following directions regarding the involuntary disenrollment of IRIS participants:

2. Program Requested Disenrollment

a. Disenrollment Process

. . . ICAs are responsible for recommending program requested disenrollments when a reason for disenrollment is identified and applicable remediation attempts have not resolved the issue . . . The reasons for program requested disenrollment, their definitions, and any required remediation include the following:

iii. **Health and Safety:** The ICA selects this reason when they are unable to ensure the health and safety of the participant.

1. Remediation/Documentation Required: The ICA must provide documentation of efforts to assist the participant in resolving the health and safety issue, including any applicable attempts at risk mitigation.

...

ix. **Program Noncompliance:** The ICA selects this reason when a participant refuses to perform responsibilities of self-direction or complete program requirements, as defined by participant education materials and program policies. Examples of noncompliance include refusing to complete a behavior support plan, refusing to develop an emergency backup plan, or refusing to sign the IRIS Service Plan (ISP).

Note: Participants have the right to abstain from signing the ISP while actively working with the ICA to adjust the plan to become mutually agreeable.

1. Remediation/Documentation Required: The ICA must provide documentation of their efforts to inform the participant of the program requirement and to assist the participant in correcting the situation.

- a. Examples include case notes informing the participant of the requirement, case notes documenting the ICA working with the participant to resolve the situation, participant education forms, and other educational materials.

Program Enrollment Addendum to IRIS Policy Manual and Work Instructions (available at <https://www.dhs.wisconsin.gov/publications/p03547.pdf>).

The IRIS program requires the member or their legal representatives to self-direct their IRIS services. In this case, there is no indication that the Petitioner is able to self-direct his services and therefore relies on his guardians to do so. The Department seeks to involuntarily disenroll Petitioner from the IRIS program on two main intertwined grounds. Specifically, that the program cannot ensure his health and safety and that his guardians are not able to perform responsibilities of self-direction due to their own health challenges, including fulfilling employer authority obligations related to the hiring of care staff.

The Petitioner's mother has reported to the ICA on multiple occasions that her and her husband's health issues impede their ability to care for him. She clarified at hearing that she was referring to their inability to provide hands-on care, but that she was still capable of self-directing services. The parties agree that returning the Petitioner to his condo is what he desires and best addresses his safety as it fully accessible to him. He has not been able to return to his condo for over a year because of a lack of sufficient care

staff. Instead, the Petitioner's most recent LTCFS notes that he "resides in the home of his parents which is not adequately equipped to handle his needs including inability to get into the tub safely for a bath, use the toilet, or exit the home without safety risk." The mother noted that securing appropriate staff to return him to his condo was impacted by Petitioner breaking an ankle and COVID-19. Of note, the federal public health emergency for COVID-19 ended over two years ago and, according to the mother's appeal letter, the ankle injury occurred approximately 5 years ago.

The Petitioner's guardians have chosen to exercise employer authority in securing care staff. See IRIS Policy Manual, § 6.1. By doing so, they take on the obligation to "recruit, hire, train, supervise, discipline, and fire their participant-hired workers." Id. Under such circumstances, the ICA's role is to "ensure participants have the tools, resources, and information to hire, train, and otherwise manage participant-hired workers." Id at § 6.1A. The ICA provides assistance and support but ultimately it is the member or their guardian who have the bulk of the responsibility to hire and manage the care workers. That is the crux of the problem here.

The Petitioner's ISSP does include the services of a support broker who would be able to provide additional support and assistance in meeting the employer authority. The problem is that the Petitioner's support broker is his father and he is not currently in a position to provide that assistance because of his own health issues. The record indicates that the guardians have not sought to locate a replacement or request the ICA's assistance in doing so, even if only temporarily until the father is able to resume that role.

The IRIS program does not require members or their guardians to hire and manage their own care staff. The use of a care agency is permitted. The ICA has presented that option to the guardians and it was declined. The mother testified about a prior occasion wherein they proposed using an agency and the ICA declined. However, the record indicates that was three years ago. More recently that option was declined by the guardians. As the guardians are not able to secure sufficient care staff to allow for a return to the condo, and have rejected the use of a care agency to provide that staffing, Petitioner must reside in a setting that his LTCFS notes is not adequately equipped to handle his needs.

The IRIS program has given the Petitioner's guardians opportunities to mitigate the issues with Petitioner's cares and participation in the program. I have no doubt that the guardians care deeply for their son and seek to the best of their abilities to care for him. There is no blame or fault cast upon the guardians. Based on the record before me, the respondent has identified a valid health and safety concern and that Petitioner and his guardians have been unable or unwilling to remediate those concerns.

Petitioner will be referred to the Aging and Disability Resource Center upon disenrollment from IRIS and will likely be eligible to enroll in Family Care, a managed long term care program that can provide a level of assistance and oversight that is not available through the self-directed program of IRIS. I would note that when appropriate the Family Care program permits the self-direction of certain services, including supportive home care.

CONCLUSIONS OF LAW

The agency properly seeks to disenroll Petitioner from IRIS due to health and safety concerns that remain present in his home despite the agency's efforts to address those concerns.

THEREFORE, it is

ORDERED

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.

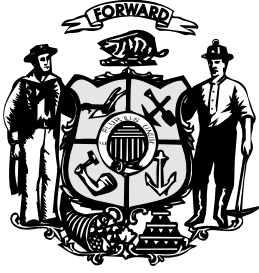
APPEAL TO COURT

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 19th day of September, 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 September 19, 2025.

Bureau of Long-Term Support