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STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: CWA - 218110

PRELIMINARY RECITALS

Pursuant to a petition filed on April 29, 2025, under Wis. Admin. Code § HA 3.03, to review a decision by the Department of Health Services regarding IRIS, a hearing was held on August 20, 2025, by telephone. The hearing was rescheduled twice at Petitioner's request to allow her time to seek and obtain legal representation.

The issue for determination is whether the Department of Health Services properly denied a one-time expense request for a vehicle modification.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner's Representative:

Attorney Mary Colleen Bradley
Disability Rights Wisconsin
1502 W Broadway
Suite 201
Monona, WI 53713

Respondent:

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

By: [REDACTED], TMG
Department of Health Services
PO Box 7851
Madison, WI 53707-7851

ADMINISTRATIVE LAW JUDGE:

Teresa A. Perez
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 50-year old resident of Dane County who is enrolled in the IRIS Program. TMG is her IRIS Consultant Agency ("ICA").
2. Petitioner resides independently in the community. Petitioner's Testimony and Resp. Ex. C2.
3. Petitioner's medical diagnoses include cerebral palsy with spastic quadriplegia and depression. Pet. Ex., pp. 1 - 5 and Resp. Ex. C3-C4.
4. Petitioner uses a power wheelchair to independently move in her home and in the community. Pet. Ex., p. 1 and Resp. Ex. C5-C6.
5. Until recently, Petitioner worked at a part-time job (approximately, 12 hours per week) at a dentist office with minor physical accommodations. She is currently unemployed but actively searching for work. Petitioner's Testimony and Pet. Ex., p. 6.
6. Petitioner has a valid driver's license and is able to "safely operate a motor vehicle when equipped with appropriate adaptive technology." Pet. Ex., p. 1, ¶2 and Resp. Ex. C8.
7. Petitioner previously had an adapted vehicle funded by the Division of Vocational Rehabilitation (DVR) which she drove for many years but, in May 2023, Petitioner was involved in a car accident and that vehicle was totaled. DVR will not pay for a new vehicle because Petitioner is eligible for paratransit services offered by Madison Metro. Petitioner's Testimony and Resp. Ex. E2 and F15.
8. Since her vehicle was totaled, Petitioner has relied on IRIS-funded supportive home care workers to run errands for her; has privately paid for paratransit services to get to work, social outings, and church; and has used MTM to get to medical appointments. While using paratransit, she has at times, been late to work and missed appointments. Petitioner's Testimony, Pet. Ex., p. 10, Testimony of [REDACTED], and Resp. Ex. E.
9. Petitioner's IRIS Annual Budget amount is \$81,690.48. Her Individual Support and Services Plan ("ISSP") for plan year December 1, 2024 - November 30, 2025 currently has \$33,522.55 of IRIS Waiver services budgeted. She thus has \$48,167.93 of her annual IRIS budget available. Resp. Ex. D1.
10. Petitioner's current ISSP includes \$6,890 in mileage reimbursement to allow supportive home care ("SHC") workers to grocery shop and run other errands for Petitioner. Petitioner is unable to accompany her SHC workers on those outings because they do not have vehicles that can accommodate her wheelchair. Resp. Ex. D3 and Testimony of [REDACTED].
11. In March 2024, Petitioner requested IRIS authorization for a new adapted vehicle. Resp. Ex. E7.
12. In May 2024, [REDACTED] conducted an accessibility assessment--a process required by IRIS policy when an individual requests authorization for a vehicle modification--and recommended purchase of the conversion portion of a side entry wheelchair accessible van, a docking system, hand controls, and twice annual maintenance inspections. In September 2024,

■■■■■ made recommendations for vehicle modifications to meet Petitioner's specific needs. Pet. Ex., pp. 16 - 18.

13. Petitioner obtained two quotes for a wheelchair conversion of a ■■■■■ van, installation of adapted driving controls, and a securement system. The lessor of the two quotes is \$116,784.50. Resp. Ex. F4-F12.
14. Sometime prior to April 2025, TMG submitted an IRIS One-Time Expense Request for \$67,548.50 to the Department of Health Services on her behalf. The requested amount is equal to the lowest quote minus the amount remaining in Petitioner's annual budget. Pet. Ex., pp. 8 - 11.
15. The One-Time Expense ("OTE") request submitted to the Department identified Petitioner's wish to continue working outside of her home in a job that is important to her as the long term care outcome that an adapted vehicle would support and further stated "this OTE would allow [Petitioner] the independence to not only get to and from work as needed, and at the last minute as schedules change, but also allow for her to do her own shopping, run errands and get out into the community to see friends, attend church, etc." Pet. Ex., p 10.
16. On April 9, 2025, the Department denied Petitioner's one-time expense request and provided the following written explanation for its decision:

The participant is requesting a van conversion with the long-term outcome: to be able to continue working outside of my home in a job that is important to me. The participant (PPT) had a van that was upfitted to meet her needs. This adapted van was equipped to allow the PPT to drive independently and was funded through DVR. However, the PPT was in an accident and the vehicle was totaled. The PPT inquired with DVR to assist in funding another vehicle modification. The request to DVR was denied since the PPT is now eligible for transportation through Madison Metro Paratransit. The total cost of the conversion is \$116,784.50 (\$49,000 from the PPTs IRIS Budget Allocation is being used). The cost of the conversion is higher than the typical vehicle modification of IRIS Waiver funds, which range on average from \$28,000 to \$42,000. The maintenance/repairs of the vehicle being requested needs to be taken into consideration of the cost, as well as future requests for vehicle modifications. While the PPT's circumstances are unfortunate, the request is not justifiable as cost-effective and is not a wise use of public funds, which is one of the 5 core principles of self-determination, under 1.1D of the IRIS Policy Manual. The conclusion of the request is denied based on cost effectiveness and the outcome can be met through public transportation to meet the need of going to work and accessing the community.

Resp. Ex. B.

17. On June 12, 2025, the Department completed an Independent Review of Petitioner's request and upheld the original denial on the same bases. Resp. Addendum Fair Hearing Packet.

DISCUSSION

The Include, Respect, I Self-Direct (IRIS) program is a Medical Assistance long term care waiver program that serves elderly individuals 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 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 at <https://www.dhs.wisconsin.gov/publications/p0/p00708.pdf>).

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. See *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 typically fall within the budget estimate. *Id.* at 5.3A. Participants may however submit a one-time expense request to the Department of Health Services with the assistance of their ICA to increase the budget to pay for goods or services, including but not limited to home modifications and adaptive aids. *Id.* at 5.8. When the Department of Health Services denies such a request, the participant may file a request for fair hearings. *Id.*

At issue here is whether the Department properly denied Petitioner's \$67,548.50 One-Time Expense ("OTE") request to fund the cost of a vehicle modification. It is a well-established principle that a moving party generally has the burden of proof, especially in administrative proceedings. *State v. Hanson*, 295 N.W.2d 209, 98 Wis. 2d 80 (Wis. App. 1980). The court in *Hanson* stated that the policy behind this principle is to assign the burden to the party seeking to change a present state of affairs. By requesting the OTE for a vehicle modification, Petitioner is the moving party and must prove by a preponderance of evidence that the OTE request meets eligibility requirements.

Vehicle modifications are part of the IRIS benefits package. *IRIS Policy Manual*, § 5.8B. A request for a vehicle modification typically requires submission of a OTE request to the Department. *IRIS Policy Manual*, § 5.8. The Department reviews all OTE requests, including those for vehicle modifications, "to ensure requests meet the IRIS participant's stated need(s) in the most cost-effective manner." *IRIS Policy Manual*, §5.8E.

IRIS policy provides the following parameters for authorization of vehicle modifications:

Vehicle modifications are physical adaptations to the vehicle that is the participant's primary means of transportation. Vehicle modifications accommodate the specialized needs of a participant and enable the participant to function with greater independence in the community. This service category also includes the cost of materials, services, inspections, maintenance, and extended warranties necessary for a vehicle modification.

Vehicle modifications and services include:

- Customized devices necessary for the participant to be transported safely in the community, including tie-downs and wheelchair docking systems;
- Driver control devices, including hand controls and pedal adjusters;
- Inspections required for a modification;
- Interior alterations to seats, head and leg rests, and belts;
- Modifications needed to accommodate a participant's sensitivity to sound, light or other environmental conditions;
- Portable ramps when the sole purpose of the ramp is for the participant to access the vehicle;
- Raising the roof or lowering the floor to accommodate wheelchairs;
- Vehicular lifts, platforms, carriers, and curbsiders.

Modifications not specifically described above may be included if approved by the DHS . . .

This service category excludes . . . modification costs that exceed the value of the vehicle to be modified. . .

Vehicle modifications may only be funded through the waiver when otherwise not available through the State Plan, Medicare, EPSDT (for participants ages 18-21), or a responsible private or public entity. This service may not duplicate any service that is provided under another waiver service category.

IRIS Service Definition Manual, pp. 44-45; see also, *Application for 1915(c) HCBS Waiver: WI.0484.R02.00 - Jan 01, 2021* ("Waiver"; available at <https://www.dhs.wisconsin.gov/iris/hcbw.pdf>), pp. 153 - 154.

There is no dispute that IRIS funds may be used to pay for the types of modifications sought by Petitioner nor is there any dispute that Petitioner requires the requested vehicle modifications in order to drive. The basis of the Department's denial is that the vehicle adaptation is not the most cost-effective means to meet Petitioner's needs because she can utilize public paratransit services instead and because "the typical vehicle modification" requested by other IRIS members "range on average from \$28,000 to \$42,000". See Finding of Fact No. 18.

The Department did not provide any detail regarding how the \$28,000 - \$42,000 average was calculated and did not specify which types of vehicle modifications it included when calculating that average. It is thus unclear whether the Department pulled data about OTE requests for services comparable to those included in Petitioner's request (i.e., wheelchair conversion, securement system, and hand controls) or whether the Department pulled data about OTE requests for all types of vehicle modifications, including requests for fewer modifications (e.g., only a wheelchair conversion or only a securement system). In other words, I don't know whether the Department was comparing apples to apples. Had the Department presented evidence that, on average, comparable requests cost only \$28,000 - \$42,000, that would have strongly indicated the existence of more cost-effective options. No such evidence was presented. I thus cannot give any weight to the Department's assertion regarding lower average costs for vehicle modifications.

The Department, at least implicitly argued, that the costs of paratransit and mileage for SHC workers to perform errands for Petitioner are less than the costs of funding Petitioner's OTE request. Petitioner countered that the adapted vehicle she hopes to obtain could be reasonably expected to last 10 years, that

if she had the vehicle, she would no longer need the mileage authorization for workers to run her errands, and that the elimination of that authorization would then save approximately \$68,900 over the span of ten years. *Pet.'s August 15, 2025 Prehearing Written Argument*, p. 3. Since the OTE request is for \$67,548.50, Petitioner contended that funding the vehicle modifications is, more or less, a wash. However, Petitioner also acknowledged that the vehicle modifications she seeks would require maintenance (which is an IRIS coverable service) and estimated that annual maintenance costs would be \$1,000 - \$2,000. It is thus appropriate to add at least \$10,000 to the \$67,548.50 OTE request if endeavoring to compare the savings associated with removing the currently authorized mileage from Petitioner's ISSP over the next 10 years (e.g., \$68,900) with the cost that the Department would be expected to incur for the adapted vehicle over the next ten years.

As noted above, Petitioner is seeking a vehicle that she can operate not only to independently run errands but also to have a more reliable, and more flexible, way to get to and from work and to social outings. The Department asserted that she has public transportation; namely, Madison Metro paratransit, available to meet those needs. Although the Department failed to include information regarding the costs of paratransit in its written denial, at hearing the ICA agreed that Petitioner has been privately paying for paratransit services but that if IRIS were to authorize paratransit (and it was not clarified why IRIS is not currently doing so), it would cost \$34.25 per one-way trip. To further support her argument that the vehicle modification requested is cost-effective, Petitioner noted that an authorization for an IRIS member to take two roundtrips via paratransit every day of the year would require an authorization of approximately \$50,000 per year. Petitioner did not clarify why she used that frequency to come up with an estimated annual cost, or if, she in fact takes an average of two round trips every day of the year. She is not currently employed and when she was, she worked at a part-time job. I understand there are many other reasons to leave one's house. But, Petitioner has the burden of proof, and she did not offer sufficient detail to prove the reasonableness of that figure.

Petitioner's primary argument is that paratransit, regardless of how expensive or inexpensive it is, is not an effective way to meet her long term care outcomes of gaining employment and community integration. She gave detailed testimony regarding times that paratransit has been an imperfect and, even unsafe, solution for her transportation needs. See Finding of Fact No. 8. She provided an example of missing a day of work when a paratransit driver was unable to wait for her on a morning that her caregiver's tardiness caused her not to be ready when the paratransit driver arrived. She provided another example of a paratransit driver who was unable to accommodate her wish to be driven home from a friend's house rather than to a movie theater, where she had originally planned to go, when she was not feeling well. She also described an occasion when a paratransit driver had an altercation with another driver and then drove recklessly while transporting Petitioner. Madison Metro fired that driver based on those actions. I do not doubt the accuracy and sincerity of Petitioner's testimony; however, Petitioner did not establish that paratransit can't meet her long term care outcomes. The examples she offered demonstrated that, at times, relying on paratransit has caused her significant frustration and justified concern but did not demonstrate a pattern of unreliable or unsafe transportation to and from work (which is the long term care outcome that was identified in her OTE request).

Petitioner also argued that she needs a modified vehicle because her job search is currently limited to the service area for Madison Metro paratransit. She did not offer evidence of particular jobs that she hoped to get, or that she was unable to pursue, because they were located outside of the paratransit service area, nor did she indicate that she is looking for a type of work that only, or primarily, exists outside of the Madison Metro paratransit service area. Also, it is not uncommon for people in the workforce to limit their jobs to those located near a bus line. Moreover, Petitioner does not currently have a job so authorizing a modified vehicle primarily to allow her to get to and from work is, in any case, premature.

For all of the reasons above, I find that the requested one-time expense is not a cost-effective means of meeting Petitioner's current long term care outcomes.

CONCLUSIONS OF LAW

Petitioner did not meet her burden to establish that the One-Time Expense request for a modified vehicle is currently a cost-effective means of meeting her long term care outcomes.

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.

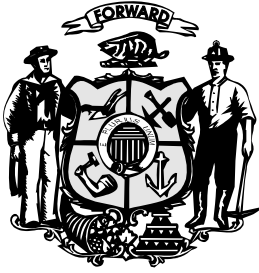
APPEAL TO COURT

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 25th day of September, 2025

\s _____
Teresa A. Perez
Administrative Law Judge
Division of Hearings and Appeals



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The preceding decision was sent to the following parties on September 25, 2025.

Bureau of Long-Term Support
Attorney Mary Colleen Bradley