



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: CWA - 220073

PRELIMINARY RECITALS

Pursuant to a petition filed on September 19, 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 November 5, 2025, by telephone.

The issue for determination is whether the respondent met its burden of proof demonstrating that it correctly acted to disenroll petitioner from the IRIS Program.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner's Representative:

[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
201 E. Washington Ave.
Madison, WI 53703

By: Pam S.

Bureau of Long-Term Support
PO Box 7851
Madison, WI 53707-7851

ADMINISTRATIVE LAW JUDGE:

John Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Rock County.
2. The petitioner's IRIS consultant conducted an in-home quarterly visit on 8/11/25.

3. On 9/22/25 the respondent issued a notice to petitioner informing petitioner that petitioner would be disenrolled from the IRIS Program effective 10/7/25.
4. The respondent sent an e-mail on 11/3/25 which was two days prior to the hearing. The e-mail from the IRIS/TMG representative appearing at hearing stated "Please find an addendum to the Hearing Packet for CWA220073. **This is the written testimony from the IC as he will not be attending the hearing:**

I am willingly providing a written testimony in lieu of appearing at the hearing on November 5, 2025. The current IC was introduced to the [REDACTED] as the new IC in November of 2024. IC was informed by the supervisor that there were some challenges to this partnership, as there have been multiple instances of verbal aggression, swearing, and hostility towards other ICs in the past. For the interest of the previous IC, and in an attempt to keep a consistent program experience moving forward, TMG made the decision to get a new IC partnered with both [REDACTED] and [REDACTED].

In November of 2024 the current IC and the previous IC met with the [REDACTED] and immediately there was tension and verbal discussions about how they will 'have it out' with the IC if they feel they need to and that they will swear and 'tell it like it is.' This created the feeling of a tense and hostile working environment; the pleasantness of a meeting was fully dictated by the actions of the participants moving forward.

The current IC worked closely with the participants for a one-time-expense project for a new deck, as well as advised on potential respite options for the daughter/paid hired worker (for a trip she was hoping to take in April of 2025 to see her son graduate). Both the one-time expense and the respite options did not work out in favor of the participant's plans and each time the current IC was met with swearing, raised voices, and verbal hostility towards the program in general. Despite being told that they weren't yelling at the IC, the entire situation, both in person and on phone calls, was unnerving and difficult.

On several occasions, via phone and in person contacts, the IC was told by the [REDACTED] that they didn't want to speak with him. During these contacts, the IC witnessed the [REDACTED] swearing about the IRIS program and broader officials in the program (the state in general) and was hung up on during phone calls.

During the August quarterly meeting, in which the second round of discussions were being conducted for the one-time expense ramp proposal, a revolver pistol was produced following angry statements and swearing. The [REDACTED] expressed anger towards the IC for the program not delivering what the participant felt should be delivered. [REDACTED] stated he wished he could round up all

the people in the state and drive them in a bus to show them how they are making people live. He shared that he was prepared to go into a nursing home to make the state pay for it and stated that the state was putting him in a nursing home. It was immediately after this statement that ██████ stated that he had bought a new gun. ██████'s daughter/paid caregiver, ██████, walked down the hall. In an attempt to diffuse the situation, IC asked if ██████ was a gun enthusiast and stood up to signal he was ready to leave. ██████ came back with the gun. ██████ handed the gun to ██████ who held it in a manner that had the barrel pointed toward the IC. The IC moved slightly to the left to not be in the direct line of the barrel and then when the gun was brought back down to being pointed at the floor, the IC moved to the right and heard the trigger pulled. During all of this, the conversation continued, and ██████ stated that they are gun enthusiasts. In trying to assess what other weapons might be in the home, IC asked if they had concealed carry. ██████ said they all had concealed carry permits. After the revolver was put away, ██████ stated that he had another one and produced what appeared to be a pistol as well. IC was told that it wasn't 'real,' that it was an airsoft style gun and that despite it not being real, at 4200 feet per second it would "hurt like hell." The IC did not want to cause the situation to escalate so we exchanged goodbyes and the IC left and reported to his supervisor.

During this IC's time with the participants, phone calls and visits have been tense and challenging; the IC was committed to doing what was needed to maintain solid program functionality, but each phone call and visit was met with anxiety, fear and trepidation because it was not known how the contact would transpire.

The IC understands my experiences to be similar to the experiences described by the previous ICs, only the most recent experience was further exacerbated with the production of 2 weapons during a heated discussion regarding the one-time expense funding project. The state's denial of the ramp OTE request has resulted in several very discomforting phone calls and in-person meetings.

The current IC reported this partnership experience to management, and management worked with DHS on the next steps that led to the disenrollment.

(Emphasis added).

5. Hearing was held on 11/5/25.

DISCUSSION

The Include, Respect, I Self-Direct (IRIS) program was developed pursuant to a Medical Assistance waiver obtained by the State of Wisconsin, pursuant to section 6087 of the Deficit Reduction Act of 2005 (DRA), and section 1915(j) of the Social Security Act. IRIS is a fee-for-service, self-directed personal care program.

The federal government has promulgated 42 C.F.R. §441.450 - .484 to provide general guidance for this program. Those regulations require that the Department's agent must assess the participant's needs and preferences, and then develop a service plan based on the assessed needs. *Id.*, §441.466. The service plan may include personal care and homemaker services. *Id.*, §440.180(b). The program is designed to allow great flexibility in self-direction by petitioner and petitioner's representatives. The agency is much less involved in day to day operation compared to the Family Care Program.

The Department's IRIS policies, specifically Enrollment Policy D.2.a. allow the program to end a participant's enrollment Program requested disenrollments are involuntary and occur as the result of a participant's failure to meet programmatic requirements, failure to perform responsibilities of self direction, or as result of general program noncompliance.

The respondent has denied continued enrollment to petitioner. The notice issued to petitioner explains that the basis for disenrollment relates to an IRIS enrollment policy:

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.

Respondent supports its action based on an allegation that [REDACTED] [REDACTED] inappropriately displayed a handgun in a threatening manner in the presence of the IRIS consultant during a home visit.

The evidence in support of the action is a written statement purportedly from the IRIS consultant (see Finding of Fact above quoting this document in full, as well as police reports written based on oral representations to law enforcement after the alleged incident. The document purporting to be from the IRIS consultant was not a sworn affidavit, was not sworn or affirmed in any other manner, and was not signed or dated.

This ALJ noted the oddness of the document being offered as "the written testimony from the IC as he will not be attending the hearing." I note that upon seeing the document prior to hearing this ALJ asked DHA support staff to contact the respondent representative to inquire whether respondent would be submitting this as an affidavit or other sworn format. The respondent replied "[t]his will be submitted as unsworn as it isn't signed or notarized.

It is critical that [REDACTED] [REDACTED], [REDACTED] [REDACTED]'s daughter, testified at hearing under oath. She denied all critical components of the allegation. From [REDACTED] [REDACTED]'s testimony, the firearm issue was no more than [REDACTED] wishing to show the IC, another gun owner/user a newly acquired firearm. [REDACTED] S. explained that the firearm never left her possession during the visit and the IC statement was hugely incorrect. [REDACTED] S. maintained that there was nothing threatening about the interactions.

The document offered by respondent, and the police reports describing what law enforcement was told by persons whose identities have been redacted, are hearsay: out of hearing statements offered to prove the

truth of what happened. The respondent offered no actual testimony, under oath, of any witness who had any personal observations of the incident. Essentially, the respondent is asking this ALJ to give more weight and credibility to a written statement by an unidentified person who was not sworn and did not testify than to [REDACTED] [REDACTED] who did testify and was under oath and was subject to this ALJ's questioning to test her account.

While hearsay is admissible in administrative hearings, an ALJ is not required to assume it to be true and persuasive. An ALJ must consider the innate unreliability of hearsay and attribute to it appropriate weight in each case. *See Williams V. Housing Authority*, 2010 WI App. 14 at ¶ 14. Had the respondent presented substantial evidence demonstrating that events of a threatening nature occurred, namely by actual hearing testimony of the IRIS consultant, then it may have prevailed. But, as the Wisconsin Supreme Court has stated with regard to the admissibility of hearsay "the relaxed evidentiary standard is not meant to allow the proceedings to degenerate to the point where an administrative agency relies only on unreliable evidence." *Gehin*, [278 Wis. 2d 111](#), ¶ 51.

The respondent made a choice to simply submit a piece of paper that was unsigned and unsworn by an unidentified person. That is not substantial evidence and is insufficient to overcome contrary testimony of a witness at hearing who was not clearly falsifying her testimony.

CONCLUSIONS OF LAW

The agency failed to meet its burden to demonstrate that the disenrollment was correct and justified.

THEREFORE, it is

ORDERED

That this matter is remanded to the department and the respondent agency with direction to reverse the IRIS disenrollment. This action must be completed within 10 days of this Decision.

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.

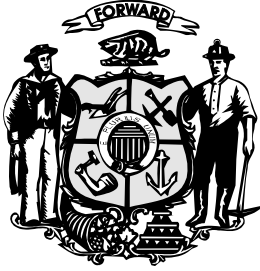
APPEAL TO COURT

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, 201 E. Washington Ave., **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 5th day of December, 2025

\s _____
John Tedesco
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 December 5, 2025.

Bureau of Long-Term Support

