



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:



DECISION

CWA/170115

PRELIMINARY RECITALS

Pursuant to a petition filed November 12, 2015, under Wis. Admin. Code § HA 3.03, to review a decision by the The Management Group ["TMG"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on December 29, 2015.

The issue for determination is whether petitioner meets the Level Of Care ["LOC"] eligibility requirement for the Include, Respect, I Self-Direct program ["IRIS"].

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

BY: [Redacted] Screen Supervisor TMG
The Management Group ["TMG"]
Suite 320
One South Pinckney Street
Madison, Wisconsin 53703

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]; 82 years old) is a resident of Clark County, Wisconsin.

2. Petitioner has diagnoses of Coronary Artery Disease [“CAD”], diabetes type 2, Chronic Obstructive Pulmonary Disease [“COPD”], Degenerative Joint Disease [“DJD”]; also known as osteoarthritis], and anxiety (not severe in degree or persistent in duration); she has had open heart surgery (triple bypass) from which she recovered in 2014; she has pain in her ankle from a fall 15 years ago that required pins to surgically repair and she has edema in 1 foot. Exhibit C.
3. The Wisconsin Department of Health Services [“DHS”] sent petitioner a letter dated October 26, 2015 entitled *Notice of Action -- IRIS Program*; that letter informed petitioner that her IRIS services would terminate because: “Your Long-Term Functional Screen, which was completed on October 22, 2015, showed that you no longer meet functional eligibility requirements to remain enrolled in IRIS.” Exhibit B.
4. A *Long Term Care: Functional Screen Report* for petitioner was completed on October 22, 2015 and concluded that petitioner has a Non-Nursing Home LOC.; that report showed that petitioner lives alone in her mobile home and prefers to live alone and that she is independent with bathing (can shower herself; can bath herself but suffers pain and exhaustion after doing so; most days she only does a sponge bath), dressing, eating, mobility in home (uses cane and often leans on furniture,) toileting, transferring, meal preparation (needs help grocery shopping weekly; receives meals on wheels), medication (although on one occasion she overmedicated herself), money management, and telephone; she is unable to do many household chores due to her CAD and COPD (requires assistance with vacuuming and laundry); she mismanages her diabetes (does not follow diet); her son and daughter-in-law report that she does not drive; she has no problems with communication, memory loss, or cognition. Exhibit C.

DISCUSSION

To be eligible for IRIS an elderly person, such as petitioner, must have an LOC that would allow admission to a Nursing Home [“NH”]. *IRIS Policy Manual* (September 2015) [“Manual”] 2.1 (page 14) & 2.1B (page 15); Exhibit E1; See also, 42 C.F.R. § 442.302(c) (2016). This determination is made following an assessment using the Long Term Care Functional Screen [“LTC FS”]. Manual 2.1A (page 14); Exhibit E1; See also, 42 C.F.R. § 441.303(c) (2016).

In this case IRIS terminated services because petitioner does not have a NH LOC as determined by the LTC FS. IRIS is correct. The evidence in the record of this matter is that petitioner’s current condition is not such that she is at the NH LOC. This is true even after talking into account testimony at the December 29, 2015 Hearing in this matter.

CONCLUSIONS OF LAW

For the reason discussed above, petitioner does not meet the IRIS LOC eligibility requirement.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same 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, 5005 University Avenue, Suite 201, 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, Madison, Wisconsin 53703, **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 22nd day of January, 2016

\sSean P. Maloney
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 January 22, 2016.

Bureau of Long-Term Support