



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]

DECISION

CWA/143417

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 23, 2012, under Wis. Admin. Code § HA 3.03, to review a decision by the Bureau of Long-Term Support in regard to Medical Assistance, a hearing was held on October 23, 2012, at New Richmond, Wisconsin. A hearing scheduled for September 20, 2012, was rescheduled at the petitioner's request.

The issue for determination is whether the IRIS program correctly refused to pay for the petitioner's car repairs.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

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

By: Jill Speer

Bureau of Long-Term Support  
1 West Wilson  
Madison, WI

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner is a resident of St. Croix County.
2. The petitioner receives Medical Assistance-Waiver benefits through IRIS.

3. The petitioner requests that IRIS pay \$3,600 to repair her vehicle, a 2001 Pontiac Grand Am with 128,345 miles on it. The actual estimated cost of the repair is \$3,578.52. The car has been at the repair garage for over a year.
4. The Kelly Blue Value of this car when sold to a private buyer, if it is in excellent condition, is \$2,742. <http://www.kbb.com/pontiac/grand-am/2001-pontiac-grand-am/se-sedan-4d/?intent=trade-in-sell&pricetype=trade-in&options=190028%7cttrue&vehicleid=4919&mileage=128345&anchor=true>.
5. The petitioner does not require the vehicle to avoid institutionalization.

### DISCUSSION

The petitioner receives medical benefits through IRIS, which stands for Include, Respect, I Self-Direct. This program is a fee-for-service alternative to Family Care, PACE, or Partnership for individuals requesting a long-term care support program in Family Care counties. *Medicaid Eligibility Handbook*, § 37.1.1. IRIS, as an MA Waiver service, may include the following services:

- (1) Case management services.
- (2) Homemaker services.
- (3) Home health aide services.
- (4) Personal care services.
- (5) Adult day health services.
- (6) Habilitation services.
- (7) Respite care services.
- (8) Day treatment or other partial hospitalization services, psychosocial rehabilitation services and clinic services (whether or not furnished in a facility) for individuals with chronic mental illness, subject to the conditions specified in paragraph (d) of this section.
- (9) Other services requested by the agency and approved by CMS as cost effective and necessary to avoid institutionalization.

42 CFR § 440.180(b)

When determining whether a service is necessary, IRIS must review, among other things, the medical necessity of the service, the appropriateness of the service, the cost of the service, the extent to which less expensive alternative services are available, and whether the service is an effective and appropriate use of available services. Wis. Admin. Code, § DHS 107.02(3)(e)1.,2.,3.,6., and 7. "Medically necessary" means a medical assistance service under ch. DHS 107 that is:

- (a) Required to prevent, identify or treat a recipient's illness, injury or disability; and
- (b) Meets the following standards:
  1. Is consistent with the recipient's symptoms or with prevention, diagnosis or treatment of the recipient's illness, injury or disability;
  2. Is provided consistent with standards of acceptable quality of care applicable to the type of service, the type of provider, and the setting in which the service is provided;
  3. Is appropriate with regard to generally accepted standards of medical practice;
  4. Is not medically contraindicated with regard to the recipient's diagnoses, the recipient's symptoms or other medically necessary services being provided to the recipient;
  5. Is of proven medical value or usefulness and, consistent with s. HFS 107.035, is not experimental in nature;
  6. Is not duplicative with respect to other services being provided to the recipient;
  7. Is not solely for the convenience of the recipient, the recipient's family, or a provider;

8. With respect to prior authorization of a service and to other prospective coverage determinations made by the department, is cost-effective compared to an alternative medically necessary service which is reasonably accessible to the recipient; and
9. Is the most appropriate supply or level of service that can safely and effectively be provided to the recipient.

Wis. Admin. Code, § DHS 101.03(96m).

The petitioner owns a car that she relied upon in the past for medical and other appointments, shopping, and getting out of the house.. At some point last year it stopped working, and she inquired as to whether the IRIS program would pay for it. She testified that the IRIS representative she works with told her to take the care to a repair shop and the program would pay for it. She had it taken into the shop, received a repair estimate for \$3,578.52, and requested \$3,600 from IRIS for that repair. IRIS now refuses to pay for any repair, contending that it would only pay for repairs related to adaptive equipment required to allow a disabled person to drive.

I understand why the petitioner is upset if she acted upon the IRIS representative's assurance that the program would pay for her car repair. That person did not testify, so I will assume that the petitioner's testimony was accurate. Nevertheless, I cannot approve this request. This repair can only fit into the "other services" category of those listed in 42 CFR § 440.180(b) and therefore must be "cost effective and necessary to avoid institutionalization." All agree that the petitioner's mental health requires that she get out of the house occasionally. Still, the car has been in shop for over a year and she remains in the community, which suggests that it is not needed to prevent her institutionalization. IRIS can provide more cost-effective alternatives to repairing the car, such as travel vouchers. The petitioner pointed out that it is not enough that she travel to her doctor, but nothing prevents her from requesting vouchers for other travel. (By pointing out that she can request vouchers for other travel, I do not guarantee that I would automatically approve them if she appealed a denial of them; such a decision would be based upon all the facts before me at that time, including the vouchers' cost and other resources available to the petitioner.)

Moreover, even if the petitioner could demonstrate that she requires a car to avoid institutionalization, repairing her current car is not a cost-effective means of obtaining one. Her car has been in storage for over a year, so the storage cost and repair would undoubtedly significantly exceed the \$3,600 she requests. According to the Kelly Blue Book, assuming her car is in excellent condition, its value when sold to a private buyer is only \$2,742. Thus, her request must be denied because she has not shown that it is cost effective or needed to avoid institutionalization.

### **CONCLUSIONS OF LAW**

Repairing the petitioner's car is not a cost effective and medically necessary means of meeting her needs.

**THEREFORE, it is**

**ORDERED**

The petitioner's appeal is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,  
Wisconsin, this 10th day of December, 2012

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\sMichael D. O'Brien  
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 10, 2012.

Bureau of Long-Term Support