



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]

DECISION

CWA/143593

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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 September 20, 2012, at Shell Lake, Wisconsin.

The issue for determination is whether the petitioner can appeal the denial of services from the IRIS program if he is not enrolled in that program.

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 (CARES # [REDACTED]) is a resident of Washburn County.
2. The petitioner receives Family Care Medical Assistance services through Northern Bridges. He has never enrolled in the IRIS program.

3. On January 30, 2012, the petitioner requested that IRIS adjust his allocation. The Division of Long Term Care reviewed and denied his request on March 9, 2012. It told him he had 10 days to appeal that decision to the Bureau of Long-Term Support. No other appeal language was provided to him. The Bureau denied his appeal on June 18, 2012. That letter contained no appeal language.

### DISCUSSION

This matter is confusing. The petitioner currently receives Family Care Medical Assistance through Northern Bridges. He seeks to enroll in IRIS but does not want his allocation there to be any lower than it currently is with Northern Bridges. IRIS is a self-directed personal care program developed pursuant to a Medical Assistance waiver Wisconsin obtained through § 6087 of the Deficit Reduction Act of 2005 (DRA), and § 1915(j) of the Social Security Act. Because the petitioner is concerned that his allocation could fall if he enrolls in IRIS, he has never applied for the program. Nevertheless, on January 30, 2012, he filed an appeal asking IRIS to increase his allocation. The Division of Long Term Care reviewed and denied his request on March 9, 2012. It told him he had 10 days to appeal that decision to the Bureau of Long-Term Support, which he apparently did, although his file contains no documentation of that appeal. The Bureau took no action until June 18, 2012, when Gail Propsom of the Division of Long Term Care sent him the following letter:

The Department of Health Services received your appeal of the decision regarding your request for an adjustment to your IRIS allocation. Your request for additional funding was denied because it appeared to be based on the request of your provider and not on documentation that the plan would better meet your needs.

The Department is willing to consider an allocation adjustment, but you need to work with the IRIS consultant to determine what the appropriate level of services would be. Your provider can have input but we need to ensure that the plan reflects your needs and preferences.

I cannot determine whether Ms. Propson accurately alleges that the additional funding was based on the request of the petitioner's provider rather than on his needs because the funding request is not in the file. It does appear that Ms. Propson was unaware that the petitioner was not enrolled in IRIS, which probably is not her fault. The main problem with her response is that it gives no appeal rights and does not appear to rely on any particular law or policy provision in making the decision. She may have been confused, which would place her in the same position as every other participant in this process.

The one thing that is clear is that the petitioner is trying to appeal the alleged action of a program that he neither participates in nor has applied for. I can find no authority for him to appeal its action: because IRIS can neither provide nor deny services to him until he at least seeks to enroll, it has done nothing that affects his substantial interest. *See Wis. Stat. § 227.42.* The petitioner agreed with this at the hearing and indicated that he would now seek services from IRIS and request that his allocation there be at least what it is at Northern Bridges. Because he intends to apply for services there, he agreed that this appeal can be dismissed.

### CONCLUSIONS OF LAW

There is no issue for determination because the petitioner agrees that this matter can be dismissed.

**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 31st day of October, 2012

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Michael 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 October 31, 2012.

Bureau of Long-Term Support