



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

CWA/145101

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 7, 2012, under Wis. Admin. Code, §HA 3.03, to review a decision by the Jefferson County Dept. of Human Services in regard to an Include, Respect, I Self-Direct (IRIS) cost share, a hearing was held on December 4, 2012, by telephone.

The issue for determination is whether the agency determined a cost share correctly.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

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

By: Julie Ihlenfeld  
Workforce Development Center  
874 Collins Road  
Jefferson, WI 53549

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Jefferson County.
2. Petitioner began to receive IRIS services effective August 1, 2012. By a notice dated July 24, 2012, the county informed petitioner that her monthly cost share was \$136.
3. The cost share was calculated by taking petitioner's monthly income of \$1,043 and subtracting the \$878 basic needs allowance and \$29 monthly dental insurance, leaving \$136. At the time the county was unaware of any other monthly medical/remedial expenses.

4. In November, 2012, petitioner reported additional medical/remedial expenses. Those expenses will be budgeted for calculating the December, 2012 cost share.

### DISCUSSION

The 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. It is a 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 (including health status) as a condition of IRIS participation. *Id.*, §441.466. The Department's agent must also develop a service plan based on the assessed needs. Further, "all of the State's applicable policies and procedures associated with service plan development must be carried out ...." *Id.*, §441.468.

IRS financial eligibility is the same as for all home and community-based waiver programs. MA Handbook, Appendix 37.1.3. The calculation of a cost share is described in the Handbook at Appendix 28.8.3.1. From income there are several possible deductions including the personal needs allowance that is currently set at \$878, health insurance, medical/remedial expenses, and a special housing amount equal to the amount of housing costs above \$350.

Petitioner filed this appeal because she received conflicting notices concerning the cost share. While I understand her confusion, I can only say that the \$136 calculated in July was the correct amount. Petitioner did not appeal the cost share amount when it was set. See Wis. Stat., §49.45(5), which provides that an appeal must be filed within 45 days of the action.

I do note that I am puzzled why petitioner did not receive a special housing amount. It appears that she pays \$350 rent plus utilities, so the amount of utilities would be considered. Again, I cannot change the amount set in July, 2012, but the county should consider the housing cost in determining December's amount.

Finally, petitioner has not paid any of the monthly cost shares. Apparently she was told different things by different workers about the cost share. The Division of Hearings and Appeals does not have authority to simply eliminate the cost share retroactively because of some mistake or confusion. The \$136 amount must stand, and petitioner will have to make arrangement to catch up the unpaid amount or risk being terminated from IRIS.

### CONCLUSIONS OF LAW

Petitioner's monthly IRIS cost share was calculated to be \$136 effective August 1, 2012, and because petitioner did not appeal the amount then, it stands as the correct amount at least until December, 2012 when additional monthly expenses were reported.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and the same is hereby 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 7th day of December, 2012

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\sBrian C. Schneider  
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 7, 2012.

Bureau of Long-Term Support