



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

CWA/145332

PRELIMINARY RECITALS

Pursuant to a petition filed November 14, 2012, under Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee Enrollment Services in regard to IRIS, a hearing was held on December 19, 2012, by telephone.

The issue for determination is whether the Department correctly determined the petitioner's IRIS cost share effective November 1, 2012.

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: Andrea Loasby, Participant Services Spec.
IRIS Consultant Agency
Tina Anderson, HSPC Sr.

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. The petitioner had an open IRIS case through October 31, 2012. The case was reviewed, and a confusing notice of change (to occur November 1, 2012) was issued to the petitioner on October 19, 2012. A clarifying notice was issued on November 2, 2012, which correctly stated that the

petitioner's continued IRIS eligibility was contingent upon payment of a \$41 monthly cost share, beginning November 1, 2012. The petitioner subsequently appealed.

3. At hearing, the Department stated that the cost share had been recalculated pursuant to a prompt from the ACCESS online review system. In recalculating the cost share upward, the Department had used a monthly utility expense of \$1.00 for the petitioner, which is not correct. The petitioner pays for electric heat on a budget plan, and pays \$79 monthly. The Department representative, Ms. Anderson, was willing to receive verification of the utility bill from the petitioner post-hearing, and then drop the cost share accordingly.
4. In companion decision CWA/144970 (Div. of Hearings & Appeals January 25, 2013), this Administrative Law Judge ruled that the petitioner was no longer eligible for the IRIS program effective November 1, 2013. The basis for discontinuance was that the petitioner did not require institutional level care.

DISCUSSION

Because the petitioner was no longer eligible for IRIS effective November 1, 2012, there is no issue remaining with respect to her IRIS cost share liability from November 1, 2012, forward.

The record was held open for 7 days for the petitioner to submit to this Administrative Law Judge a letter dated/received December 3, 2012, from John O'Keefe, which the petitioner stated absolved her of any cost share liability in 2012. Although it probably did not matter in terms of the outcome here, that letter was not received.

CONCLUSIONS OF LAW

Because the petitioner was no longer eligible for IRIS effective November 1, 2012, there is no issue remaining with respect to her IRIS cost share liability from November 1, 2012, forward.

THEREFORE, it is

ORDERED

That the petition 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 30th day of January, 2013

\sNancy J. Gagnon
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 30, 2013.

Milwaukee Enrollment Services
Bureau of Long-Term Support