



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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

CWA/150400

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**PRELIMINARY RECITALS**

Pursuant to a petition filed June 28, 2013, 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 August 26, 2013, at Jefferson, Wisconsin.

The issue for determination is whether the IRIS Program erred in denying petitioner's request for black-out curtains and a mechanical lift.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Jill Speer  
IRIS  
1 S. Pinckney St., #320

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Jefferson County.
2. Petitioner is enrolled in the IRIS Program.
3. Petitioner has mobility issues as a result of an automobile accident. Petitioner has spinal instability which can be painful and cause falls.

4. Petitioner requested funding from IRIS for a mechanical lift in her attached garage to enter and exit the home. The cost of this ramp is \$7,634.
5. The IRIS Program denied the request instead offering to fund a ramp outside her home.
6. Petitioner also requested black-out curtains for her bedroom at a cost of \$777.
7. Petitioner appealed the denials of the requested items.

### 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.

IRIS Program policy no. SC 16.1 provides guidance on coverage of customized goods or services under the program. Such goods or services are those that enhance the person's opportunities related to living arrangement, relationship, community inclusion, work, and functional medical status. The item must meet all four of the following criteria:

- a. It must be designed to meet the person's functional, vocational, medical, or social needs and also advance the desired outcomes in the individual service plan;
- b. It must be documented on the service plan;
- c. It cannot be prohibited by statutes or regulations;
- d. It cannot be available through another source or be experimental in nature.

In addition, the item must meet at least one of the following criteria:

- a. It will maintain or increase the person's safety in the home or community;
- b. It will decrease or prevent increased dependence on other Medicaid-funded services;
- c. It will maintain or increase the person's functioning related to his disability;
- d. It will maintain or increase the person's access to or presence in the community.

The agency must review questionable items that exceed the cost of average products necessary to meet an outcome. ***The agency must provide an item that is the most cost effective possible.*** See IRIS Program Operations Infrequent Expense Policy at [www.dhs.wisconsin.gov/bdds/IRIS/BudgRevw.pdf](http://www.dhs.wisconsin.gov/bdds/IRIS/BudgRevw.pdf). See also 42 C.F.R. §440.180(b)(9).

Neither of the requests in this case meets the requirement that the items be cost-effective. First, the black-out curtains requested by petitioner include Jaipur-Lavender fabric which is a significant \$270 of the cost, a double traverse rod at \$85, and installation at \$140. There was no competing bid presented by petitioner. I have no way of determining that this is a competitive price for this item. But, more importantly, I cannot determine that this specific item is anything but a luxury. After all, only \$90 of the \$777 item is the black-out lining. The IRIS Program has suggested room-darkening curtains at Target costing about \$30. Petitioner says these would be inadequate as they would not darken enough. But, there are also roll-down shades available widely (often used in children's rooms) which could add more darkening, likely at a cost of less than \$747 additional dollars. They may indeed be the best black-out

curtains available. But, that does not make them cost-effective. I cannot make any other determination than that \$800 for window coverings in a room is an exorbitant expense and that more cost-effective options exist.

As for the mechanical lift, the cost is twice what a ramp would cost. The IRIS Program has already offered to fund the ramp at nearly \$4,000. Petitioner argued that she is embarrassed by her neighbors seeing her in a physically limited position and that a lift would help her avoid such exposure. But, as the program correctly noted at the hearing, the whole point of ramp or lift is so that petitioner can get out and about in public. There is the concern about a ramp in a Wisconsin winter and it limiting access. But, I also recognize that petitioner would likely need to shovel a driveway to exit her home by car. Shoveling a ramp would be some additional work, but not unreasonable. I don't imagine that all, or even most, people with mobility limitations in this state have mechanical lifts in their homes. Finally, petitioner argued that she moved quite slowly and could fall on the ramp. When questioned about the feasibility of a manual wheelchair, if only for getting from the front door to the car, petitioner was reluctant. I recognize that the ramp is not the best solution for many reasons. But, the IRIS Program need not pay for the ideal solution. The ramp is the more cost-effective solution and a public benefit program that seeks to provide cares and services for many people is justified in applying a cost-effective analysis to requests such as these.

### **CONCLUSIONS OF LAW**

The IRIS Program did not err in denying the black-out curtains and the mechanical lift as those are not the most cost-effective solutions.

**THEREFORE, it is**

**ORDERED**

That this matter 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 2nd day of October, 2013

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\sJohn P. Tedesco  
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 2, 2013.

Bureau of Long-Term Support