



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CWA/152126

PRELIMINARY RECITALS

Pursuant to a petition filed September 17, 2013, under Wis. Admin. Code § HA 3.03, to review a decision by the IRIS Consultant Agency in regard to the IRIS ("Include, Respect, I Self-Direct") program, a Hearing was held via telephone on November 11, 2013.

The issue for determination is whether petitioner meets the IRIS Level Of Care ["LOC"] eligibility requirement.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED] F. [REDACTED]
[REDACTED]
[REDACTED]

Represented by:

[REDACTED], petitioner's mother &
caregiver
c/o [REDACTED] F. [REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703
By: Jill Speer, IRIS Participant Services Specialist
IRIS Consultant Agency
Suite 320
1 South Pinckney Street
Madison, Wisconsin 53703-2887

OTHER PERSONS PRESENT:

[REDACTED], IRIS Screening Specialist Supervisor
[REDACTED], IRIS Screening Specialist Liaison
[REDACTED], IRIS Screening Specialist

ADMINISTRATIVE LAW JUDGE:
Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]; 43 years old) is a resident of Fond Du Lac County.
2. Petitioner has diagnoses of diabetic neuropathy, chronic kidney disease (stage III), coronary artery disease, high blood pressure, and is legally blind (he can read with the use of special equipment); he had a kidney transplant on January 24, 2013 and is no longer on dialysis and is in fair but stable condition (his current kidney function is about 60%); he uses a cane and requires some assistance in public places and with house cleaning; he is divorced and lives with his teenage son. Exhibit #2 (“B”).
3. IRIS sent petitioner a letter dated August 6, 2013 entitled *Re: Notice of Action*; that letter informed petitioner that his IRIS services would terminate because: “Your Long-Term Functional Screen, which was completed on 8/5/2013 [sic], showed that you no longer meet functional eligibility requirements to remain enrolled in IRIS.”
4. A *Long Term Care: Functional Screen Report* for petitioner was completed on August 2, 2013; that report showed that petitioner is independent with bathing, dressing, eating, mobility in home, toileting, transferring, money management, and telephone; it also showed that he requires some help with meal preparation (he can cook simple meals in the microwave but requires help with grocery shopping), medication management, laundry, and transportation (he cannot drive); it concluded that petitioner has a Non-Nursing Home LOC. Exhibit #2 (“B”).
5. Petitioner testified that he has difficulty with mobility in his home (he testified that he uses all the walls and the couch arm for support).

DISCUSSION

Individuals who wish to participate in IRIS must meet the following criteria in order to qualify:

- Reside in a county operating Family Care;
- Have a nursing home level of care as determined by the Long Term Care [“LTC”] Functional Screen; and,
- All Medicaid Home- and Community-Based waiver financial and non-financial eligibility criteria.

Medicaid Eligibility Handbook [“MEH”] 37.1.3.; Exhibit #4 (“D”)

In this case IRIS terminated services because petitioner does not have a nursing home LOC as determined by the LTC Functional Screen. IRIS is correct. The evidence in the record of this matter is that petitioner’s current condition is not such that he is at the nursing home LOC.

CONCLUSIONS OF LAW

For the reason discussed above, petitioner does not meet the IRIS LOC eligibility requirement.

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 27th day of November, 2013

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on November 27, 2013.

Bureau of Long-Term Support