



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CWA/155716

PRELIMINARY RECITALS

Pursuant to a petition filed February 25, 2014, under Wis. Admin. Code § HA 3.03, to review a decision by the Bureau of Long-Term Support ["BLTS"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on August 5, 2014. At petitioner's request Hearings scheduled for June 19, 2014 and April 23, 2014 were rescheduled.

The issues for determination are whether it was correct:

- (I) for the Include, Respect, I Self-Direct program ["IRIS"] to reduce petitioner's Supportive Home Care ["SHC"] hours from 120 hours per month to 90 hours per month; and,
- (II) for IRIS to deny funding for a standard bed, box spring, and mattress for petitioner.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Sue Hanks, Quality Services Manager
Bureau of Long-Term Support
Department of Health Services
State of Wisconsin
IRIS Consultant Agency
Suite 320
1 South Pinckney Street
Madison, Wisconsin
53703-2887

OTHER PERSONS PRESENT:

- ██████████, IRIS Area Lead (observing only)
- ██████████, IRIS Quality Services Specialist
- ██████████, IRIS Area Lead (observing only)
- ██████████, IRIS Area Lead (observing only)

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (57 years old) is a resident of Milwaukee County, Wisconsin.
2. Petitioner has hypertension, asthma, lumbar spinal fusion, chronic pain syndrome, carpal tunnel syndrome, pelvic relaxation due to rectovaginal incompetence (has daily urinary incontinence), chronic cough, trigger finger, obesity (BMI 30-39.9), and arthritis of knee degenerative.
3. Prior to January 2014 petitioner was receiving 120 SHC hours per month funded by IRIS in addition to 50 hours per month of Self-Directed Personal Care [“SDPC”] services.
4. Petitioner requested that IRIS fund a standard bed, box spring, and mattress for her.
5. By a *Notice of Action* dated January 29, 2014 IRIS informed petitioner that her SHC hours would be reduced from 120 hours per month to 90 hours per month (her SDPC hours remained the same) and that her request for a standard bed, box spring, and mattress was denied.
6. IRIS reduced petitioner’s SHC hours based on the results of an *IRIS Supportive Home Care Assessment Tool* completed on January 16, 2014 (which showed that petitioner needed only 82.5 SHC hours per month) and a *Long Term Care Functional Screen Report* [“LTCFS”] completed on October 3, 2013.
7. The October 3, 2013 LTCFS showed that petitioner lives alone and need help bathing (helper must be present for supervision, cueing, hands-on assistance), dressing (helper need not be present but some supervision, cueing, hands-on assistance is needed), toileting (helper need not be present but some supervision, cueing, hands-on assistance is needed), medication, money management (can only complete small transactions), and laundry; the LTCFS also showed that petitioner does not need help with eating (although she needs help with meal preparation), mobility in home, transferring, or communication, that she does not need overnight supervision, and that she does not exhibit any negative behaviors.
8. The need for a standard bed, box spring, and mattress is not documented on petitioner’s *IRIS Individual Support & Service Plan* dated June 1, 2012 that is part of the record of this matter.

DISCUSSION

(I) REDUCTION OF SHC HOURS

This matter must be decided by the preponderance of the credible evidence. Wis. Admin. Code § HA 3.09(4) (September 2001). The preponderance of the credible evidence in the record of this matter is that

90 SHC hours per month are adequate to meet petitioner's needs.¹ This evidence includes the detailed January 16, 2014 *IRIS Supportive Home Care Assessment Tool* as well as the October 3, 2013 LTCFS. Petitioner has presented little evidence of her own to dispute this detailed documentation. Petitioner testified that she "is not able to do everything they say" that she does not have control over her bladder, and that a lot of laundry must be done. However, petitioner presented almost no evidence to show that 90 SHC hours per month is not adequate. Services funded by IRIS must be cost-effective. 42 C.F.R. § 440.180(b)(9) (2012); see also, 42 C.F.R. § 440.302(b) (2012). It is not cost-effective to provide more SHC hours than are documented as being needed by petitioner.

(II) BED, BOX SPRING, AND MATTRESS

IRIS funds must be used to pay for items that increase a participant's independence or substitute for human assistance. 42 C.F.R. § 440.482(b) (2012). The evidence in the record of this matter does not show that the requested bed, box spring, and mattress meet this requirement. Therefore, they were correctly denied. Additionally, IRIS policy requires that goods and services (even if customized) must be documented on the participant's Individual Service and Support Plan. IRIS Policy SC 16.1 ("IRIS Funding for Goods, Supports and Services"); Effective Date September 1, 2010; § 1.b. The need for a standard bed, box spring, and mattress is not documented on petitioner's IRIS *Individual Support & Service Plan* dated June 1, 2012 that is part of the record of this matter.

It appears from the record of this matter that petitioner currently has a mattress on the floor with no bed frame (although it is not clear from the record of this matter whether or not this prevents petitioner from transferring in-and-out of bed independently). Further, petitioner has provided letters from her medical doctor stating that a "standard bed would greatly assist this patient in minimizing her effort required at sleep time in her current circumstances. She would have less effort required to move in and out of her bed which will alleviate pain, stiffness and mobility issues" and "[h]er pain combined with her medical problems support her need for a regular bed at normal height." It may be that petitioner would benefit from the bed, box spring, and mattress that she has requested -- but this does not mean that it qualifies for IRIS funding.

CONCLUSIONS OF LAW

For the reasons discussed above, it was correct:

- (I) for IRIS to reduce petitioner's SHC hours from 120 hours per month to 90 hours per month; and,
- (II) for IRIS to deny funding for a standard bed, box spring, and mattress for petitioner.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby DISMISSED.

¹ This is especially true in light of the fact that petitioner receives 50 hours per month of SDPC services in addition to her SHC hours.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

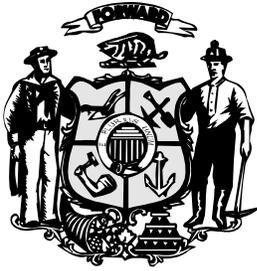
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 14th day of August, 2014

\sSean P. Maloney
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 August 14, 2014.

Bureau of Long-Term Support