



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

CWA/157111

**PRELIMINARY RECITALS**

Pursuant to a petition filed April 21, 2014, under Wis. Admin. Code § HA 3.03, to review a decision by the Burnett County Department of Social Services in regard to Medical Assistance, a hearing was held on June 10, 2014, at Siren, Wisconsin. A hearing scheduled for May 15, 2014, was rescheduled at the petitioner's request.

The issue for determination is whether the Department correctly seeks to disenroll the petitioner from the IRIS program because he has failed to pay his share of his medical costs.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:



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Respondent:

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

By: Sue Hanks

Burnett County Department of Social Services  
7410 County Road K, #280  
Siren, WI 54872

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # ) is a resident of Burnett County.
2. The petitioner participates in IRIS, a medical assistance waiver program.

3. The petitioner currently is required to pay \$253.33 a month toward his medical costs. This amount includes \$51.33 toward overdue payments.
4. The petitioner did not pay anything toward his medical costs in March 2014, paid \$100 toward those costs in April 2014, and paid \$40 toward those costs in May 2014.
5. The petitioner did not pay any of his share of his medical costs from April through July 2013.
6. As of May 1, 2014, the petitioner owed \$989 toward his IRIS cost share. He did not pay his share between then and the hearing.

### **DISCUSSION**

The petitioner receives medical assistance through IRIS, which stands for Include, Respect, I Self-Direct. It is a fee-for-service alternative to Family Care, PACE, or Partnership for individuals requesting a long-term care support program in Family Care counties that was developed pursuant to a waiver obtained through section 6087 of the Deficit Reduction Act of 2005 (DRA) and section 1915(j) of the Social Security Act. The waiver document providing the program's authority is available at <http://www.cms.gov/MedicaidStWaivProgDemoPGI/MWDL/list.asp>. Wisconsin IRIS policies are found online at <http://www.dhs.wisconsin.gov/bdds/iris/IRISPolicySummary.pdf>. Those receiving through an MA-Waiver program, including IRIS, must contribute all income exceeding allowable deductions, including the personal maintenance allowance the medical remedial deduction to their medical care. *Medicaid Eligibility Handbook*, 28.5.1. See 42 CFR 447.52 for authority for imposing a cost share on MA-Waiver recipients. IRIS can end a participant's enrollment when he fails to pay a Medicaid cost share or to meet Medicaid spend-down obligations. *Id.*

The petitioner has been behind on his IRIS payments for over a year. He paid nothing from May through July 2013. On February 4, 2014, he agreed in writing to pay \$202 toward his regular cost share plus \$51,33 toward his overdue share each month. He paid \$300 that month, but since then paid \$40 in March, \$100 in April, and nothing after that month. The county agency seeks to end his enrollment in the program because of his consistent delinquent payments. He contends that he cannot afford them.

I have no doubt that it is difficult to make the payments, but they are required to remain in the program. The petitioner did not testify to any extraordinary expenses during this period, and I must assume that the cost share is reasonable because it is the same for all participants in the petitioner's basic financial situation. The Division of Hearings and Appeals has held several times that agencies can end benefits if the recipient consistently fails to make these payments. See, e.g., *DHA Decision Nos. MCW-40/36598, MCW-40/49588, MED-40/49589, MCW-40/49950, MCW-53/54763* and *MCW-57/86024*. As Administrative Law Judge David Fleming wrote in *MCW-70/55775*, "To simply disregard the payment obligation, time and time again, cannot be tolerated by the agency that is providing services upon the agreement that the Petitioner pay his cost share." I agree with his analysis and uphold the agency's decision to disenroll the petitioner.

### **CONCLUSIONS OF LAW**

The county agency correctly seeks to disenroll the petitioner from the IRIS program because he has failed to pay his share of his medical costs.

**THEREFORE, it is**

**ORDERED**

The petitioner's appeal is dismissed.

## 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 28th day of July, 2014

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\sMichael D. O'Brien  
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 July 28, 2014.

Burnett County Department of Social Services  
Bureau of Long-Term Support  
[John.OKeefe@wisconsin.gov](mailto:John.OKeefe@wisconsin.gov)