



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[Redacted]
c/o [Redacted]
[Redacted]
[Redacted]

DECISION

CWA/158108

PRELIMINARY RECITALS

Pursuant to a petition filed June 2, 2014, under Wis. Admin. Code § HA 3.03, to review a decision by the Wisconsin Department of Health Services ["DHS"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on July 1, 2014.

The issue for determination is whether it was correct to deny funding by the Include, Respect, I Self-Direct program ["IRIS"] for a private resort pool membership for petitioner.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted] (not present at July 1, 2014
Hearing)
[Redacted]
[Redacted]
[Redacted]

Represented by:

[Redacted], petitioner's mother
[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:

██████████, Southeast Area Lead  
██████████, Quality ██████████ Specialist  
██████████, petitioner's father

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ██████████; 35 years old) is a resident of Milwaukee County, Wisconsin.
2. Petitioner lives with her family in Oak Creek, Wisconsin
3. Petitioner's family has a vacation home at ██████████ in Wisconsin Dells, Wisconsin.
4. Petitioner's family stays at their vacation home most weekends, but not weekdays.
5. Petitioner requested that IRIS pay for an annual pool membership at their vacation home in ██████████ at a cost of \$605.99; at the July 1, 2014 Hearing petitioner amended the request to be for the \$449 cost of a single membership.
6. An annual family pool membership at ██████████ is \$800.
7. An annual family membership the YMCA is \$828; this includes not only use of a pool but also a gym, fitness classes, wellness consultations, running tracks, saunas, whirlpools, steam rooms, and racquetball.
8. Medical documentation dated June 27, 2014 states that petitioner should exercise as much as possible due to her health issues.
9. By a letter dated May 28, 2014 entitled *Notice of Action* petitioner's request that IRIS pay for an annual pool membership at their vacation home in ██████████ was denied.

**DISCUSSION**

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). The requested annual pool membership at ██████████ is not the most cost-effective alternative available. Funding an annual pool membership at a resort is not cost-effective when petitioner will only be there, at most, for 2 days per week. It would be much more cost-effective to fund an annual member at a location near petitioner's home in Oak Creek, such as the YMCA, where petitioner could take advantage of not only a pool, but also many other exercise opportunities, 5 or more days per week.

Second, the request \$449 (the cost of a single membership at ██████████) is not cost-effective. It would be more cost-effective for petitioner's family to buy a family membership and for IRIS to pay only an amount that is the family membership fee divided by the number of members in petitioner's family (otherwise IRIS may end-up subsidizing a pool membership for other members of petitioner family).

Petitioner argues that she works at [REDACTED] [REDACTED] 5 days per week, is exhausted when she gets home, and so will exercise only the weekends when she is at the resort. However, medical documentation dated June 27, 2014 states that petitioner should exercise as much as possible due to her health issues. Thus, it may be advisable for petitioner to exercise frequently at a location near her home in Oak Creek (even if this means working less at [REDACTED]).

**CONCLUSIONS OF LAW**

For the reasons discussed above, it was correct to deny funding by IRIS for a private resort pool membership for petitioner.

**NOW, THEREFORE, it is ORDERED**

That the petition for review herein be and the same is hereby 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**

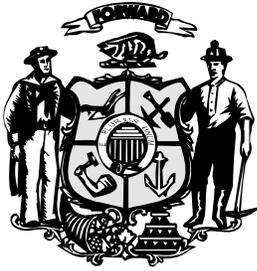
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those 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 14th day of July, 2014

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\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 July 14, 2014.

Bureau of Long-Term Support