



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
Redact

DECISION

CWA/161850

PRELIMINARY RECITALS

Pursuant to a petition filed November 11, 2014, under Wis. Admin. Code, §HA 3.03, to review a decision by the Include, Respect, I Self-Direct (IRIS) program to terminate eligibility, a hearing was held on December 3, 2014, by telephone.

The issue for determination is whether the agency correctly seeks to close IRIS due to financial improprieties.

PARTIES IN INTEREST:

Petitioner:

[Redacted]
[Redacted]
Redact

Respondent:

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

By: [Redacted]
TMG Wisconsin
One S. Pinckney St., Suite 320
Madison, WI 53703

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [Redacted]) is a resident of Milwaukee County.
2. Petitioner has been a participant in the IRIS program since July, 2013. Her primary IRIS services have been personal and supportive home care provided by various providers obtained by petitioner. Concerns were raised about petitioner's finances in August, 2014, and petitioner signed a "Fraud Prevention" form on August 21, 2014.

3. A worker time report form dated September 15, 2014 for the period September 1-15 was submitted by worker [Redacted] for 50 hours of work. The form was signed by Ms. [Redacted] and purportedly by petitioner. Petitioner's signature on that form looks substantially similar to the ones on other documents signed by petitioner, and importantly looks very dissimilar to Ms. [Redacted]'s signature on the same form.
4. A check was issued by the agency to petitioner, but to the order of [Redacted]. Petitioner signed the check and paid money to a person named [Redacted] whom, she later explained, was the person who actually did the care services during the first two weeks of September. Mr. [Redacted] applied for certification to do care work for petitioner but was denied on October 7, 2014 after failing a background check.
5. By a notice dated October 31, 2014, the IRIS agency informed petitioner that IRIS eligibility would end November 20, 2014 due to fraudulent circumstances.

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. IRIS policies are found online at <http://www.dhs.wisconsin.gov/publications/P0/P00708.pdf>.

IRIS policies allow the program to end a participant's enrollment when fraud by the participant is substantiated. See §10.1A.1, No. 18 of the IRIS Policy Manual: Work Instructions, a separate manual found at <http://www.dhs.wisconsin.gov/publications/P0/P00708a.pdf>. Disenrollment from IRIS does not necessarily mean that the person is ineligible for all Department services; the person might have to apply for Family Care or another program that does not include self-directed services but instead has more involvement from agency case managers to make certain that services are provided and paid for.

In this case petitioner claims that [Redacted] did not provide services from September 1-15, and that Ms. [Redacted] forged petitioner's signature on the time sheet. Looking closely at the signatures and at other signatures provided by petitioner, if it is a forgery it is an expert one. Given Ms. [Redacted]'s actual signature on the time sheet it is hard to believe that the same person could be responsible for both of the signatures on the time sheet.

However, even if Ms. [Redacted] did forge petitioner's signature, then petitioner's action of cashing the check and keeping the money when the check arrived is equally as fraudulent. Petitioner testified that she cashed the check erroneously because her name was on it, but that is difficult to believe given that petitioner had been receiving such checks since 2013.

If petitioner actually signed the time sheet, which I believe to be more likely, then one of two circumstances occurred. Ms. [Redacted] did the work, and petitioner cashed the check and kept the money, or Ms. [Redacted] did not do the work and petitioner signed a false time sheet. Either way fraud occurred.

All of this occurred within one month of petitioner reviewing a fraud prevention worksheet with an IRIS representative and signing the worksheet to acknowledge reviewing it.

I conclude that the agency's termination of petitioner's IRIS eligibility was done correctly. It is evident that despite her need for services she should not be self-directing them. Petitioner should work with a DHS representative to try to transition to a different program.

CONCLUSIONS OF LAW

The IRIS agency correctly sought to terminate petitioner’s eligibility for the program because of substantiated fraud by petitioner.

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 9th day of December, 2014

\sBrian C. Schneider
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 December 9, 2014.

Bureau of Long-Term Support