



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION



PRELIMINARY RECITALS

Pursuant to a petition filed December 8, 2014, under Wis. Admin. Code § HA 3.03, to review a decision by the Bureau of Long-Term Support in regard to an IRIS calculation, a hearing was held on February 18, 2015, by telephone. A hearing set for January 22, 2015, was rescheduled at the petitioner’s request.

The issue for determination is whether the agency correctly declined to subtract mileage expenses as a medical/remedial expense in the petitioner’s IRIS cost share computation.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Megan Perry, IRIS Financial Eligibility Spec.

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon  
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of [REDACTED] County. He is disabled, and is enrolled in the IRIS program.
2. In December 2014, the Department issued written notice to the petitioner, advising that his IRIS cost share would be \$192.61, from January 1, 2015 forward.
3. The petitioner receives monthly gross income of \$1,905. He pays rent of \$840, pays no health insurance premium, and has documented medical/remedial expenses of \$309.39 monthly.

- [REDACTED]
4. The petitioner received a handicapped van from public funds in 2005. He is able to drive himself about in this van. The IRIS program is willing to pay repair costs for that van. Prior to receiving the van, the county/program paid for van transportation for the petitioner. The IRIS program continues to pay a contractor to provide medical trips, paratransit and taxi services for program participants who cannot drive themselves.
  5. The petitioner made a verbal request to the IRIS program to add a mileage expense to his medical/remedial expense deduction in his IRIS cost share computation. The program has verbally declined to do so.

## DISCUSSION

The Include, Respect, I Self-Direct (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. This Section 1915(c) waiver document is available at <http://www.cms.gov/MedicaidStWaivProgDemoPGI/MWDL/list.asp>. IRIS is a fee-for-service, self-directed personal care program.

The federal government has promulgated 42 C.F.R. §441.450 - .484 to provide general guidance for this program. Those regulations require that the Department's agent must assess the participant's needs and preferences, and then develop a service plan based on the assessed needs. *Id.*, §441.466.

In this case, the petitioner has been found eligible for IRIS. An eligible person's income is reviewed to determine if the recipient has enough income to be responsible for payment of a monthly "cost share." See, *Medicaid Eligibility Handbook* at §§ 37.1, 28.5, 28.8, & 27.7.8 *et seq.*, available at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm>. A recipient may request a hearing on the determination of the cost share amount.

A person who receives both a Medical Assistance card and IRIS, and is not on "regular MA" because of excess income, is classified as being in Group A, Group B, or Group C. Group A is for person who receives SSI or certain other benefits that are not relevant here. The petitioner does not fit within Group A. Group B status is available to a person who has gross income below the Community Waivers MA income limit of \$2,199 in 2015. *MEH*, § 39.4.1. A Group B recipient may have health insurance premiums, certain medical/remedial expenses and a \$890 Basic Needs Allowance (possibly including housing expenses) subtracted from his income before a cost share is computed. 42 C.F.R. §435.726; Wis. Admin. Code §DHS 103.07(1)(d). The petitioner's undisputed gross income of \$1,905 places him in Group B. (Group C is for a person with more than \$2,199 in monthly income).

To calculate the petitioner's cost share, the agency started with \$1,905 gross income and subtracted the \$913 basic needs allowance plus a \$490 special housing deduction. This deduction was premised on a rent cost of \$840, minus a shelter cost threshold of \$350. The agency also subtracted a \$309.30 medical/remedial expense. This left \$192.61, which is the cost share amount.

The petitioner asks that his mileage expense for his self-transport be added to the medical/remedial expense total. He asserts that he drives himself to an average of three medical appointments, eight health-related locations (YMCA for exercise), and eight non-medical appointments monthly. He further asserts that the cost of taking some other transportation provider to these appointments would save the program over \$609 monthly, and that \$609 should therefore be added to his medical/remedial expense deduction.

The agency's response is that mileage costs are not allowable as a medical/remedial expense. The agency supplied the *Updated Medical and Remedial Expenses Checklist* from the Department of Health Services in Exhibit 1. The *Checklist* does not include mileage expenses. Further, the *Checklist* specifically says that

“transportation” is not allowable as a medical/remedial expense. Thus, the agency’s refusal to subtract mileage costs as a medical/remedial expense was correct.

As noted in the agency’s response, if the petitioner requests it, the agency could build a reasonable medical mileage reimbursement amount into the petitioner’s service plan. *See*, 42 C.F.R. § 441.482.

### **CONCLUSIONS OF LAW**

1. The agency correctly computed the petitioner’s IRIS cost share for January 2015, forward.

**THEREFORE, it is**

**ORDERED**

That the petition 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 13th day of March, 2015

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\sNancy J. Gagnon  
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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 13, 2015.

Bureau of Long-Term Support