



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CWA/163340

PRELIMINARY RECITALS

Pursuant to a petition filed January 15, 2015, under Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on February 17, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly seeks to discontinue the Petitioner's participation in IRIS due to mismanagement of funds.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

█
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Respondent:

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

By: Carrie Haugen

Division of Health Care Access and Accountability

Madison, WI

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. On October 21, 2014, the Petitioner was admitted to Froedtert Hospital following a car accident. Petitioner had surgery on October 23, 2014. On October 29, 2014, she was discharged from

Froedtert and admitted to Milwaukee Estates for rehabilitation. Petitioner was discharged from Milwaukee Estates on January 31, 2015.

3. Petitioner's daughter, FR, is her paid caregiver.
4. The Petitioner submitted a time report for October, 2014 to the agency. She reported that FR provided cares 5 hours/day from October 21 – 30, 2014. The time report is signed by the Petitioner and FR on October 2, 2014.
5. The Petitioner submitted a time report for November, 2014 to the agency. She reported that FR provided cares 10 hours/day from November 1 – 9, 2014, 5 hours/day on November 10 and 11, 2014 and 4 hours on November 12, 2014. The time report is signed by the Petitioner and FR on November 17, 2014.
6. The Petitioner submitted a time report for December, 2014 to the agency. She reported that FR provided cares 5 hours/day from December 16 – 25, 2014 and 10 hours/day from December 25 – 30, 2014. The time report is signed by the Petitioner and FR on January 2, 2015.
7. On January 7, 2015, FR informed the agency that the Petitioner had been discharged from Milwaukee Estates.
8. On January 8, 2015, the agency issued a Notice of Action to the Petitioner informing her that the agency will discontinue her participation in IRIS based on mismanagement of funds.
9. On January 15, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

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 allow the program to involuntarily disenroll a participant when purchasing authority is mismanaged, including possible fraud or misrepresentation or willful inaccurate reporting of services. IRIS Policy Manual, § 3.03.1. In this case, the IRIS agency seeks to disenroll the Petitioner alleging mismanagement of purchasing authority, specifically fraud or willful inaccuracy in reporting of services. The agency alleges that the Petitioner and FR billed for services in October, November and December, 2014 when the Petitioner was at Froedtert and Milwaukee Estates. IRIS policies state that short term stays in a hospital or nursing home do not affect a participant's eligibility but a participant may not bill the IRIS program for services while receiving care in a hospital or nursing home. IRIS Policy Manual, §2.3C.

The evidence from the agency clearly establishes that the Petitioner and FR signed time sheets alleging that services were provided to the Petitioner during October, November and December, 2014 when the Petitioner was in the hospital and at the nursing home. The time sheet from October, 2014 is particularly troubling in that it is signed by the Petitioner and FR on October 2, 2014. It was signed before any services were provided for that month.

The agency also presented evidence that the Petitioner had been educated to the IRIS policy that prohibits billing for services when the participant is in a hospital or nursing home. Specifically, the Petitioner was told verbally of this policy at the time of her initial orientation to the program on November 19, 2011 and reminded verbally of the policy on October 12, 2013, November 26, 2014 and December 3, 2014. The Petitioner was also told of the policy when she signed an IRIS Participation Education – Self-Direction Responsibilities form on December 2, 2014 and when she signed My Cares Instruction Sheets on April 27, 2013 and March 5, 2014.

The Petitioner testified that she has memory problems and did not remember being told about the policy or signing any documents informing her of the policy. She also testified that she did receive services as reported, claiming that she was discharged for a portion of each day from the nursing home to go home.

The Petitioner's testimony is not credible. The Long Term Care Functional Screen completed in August, 2014 and submitted as an exhibit by the agency reports that the Petitioner has no memory or cognitive issues. While the Petitioner's memory might have been affected by medications during her hospitalization, this does not explain her signature on October 2, 2014 for services that had not yet been provided.

The agency presented evidence that the staff at Milwaukee Estates confirmed that the Petitioner never left the facility during the time she was admitted. Even if she had left Milwaukee Estates on occasion, this does not explain the 5 hours/day that was reported during her period of hospitalization, including the day that she had surgery.

Based on the evidence presented, I conclude that the agency properly seeks to discontinue the Petitioner's participation in the IRIS program based on mismanagement of funds.

CONCLUSIONS OF LAW

The agency properly seeks to discontinue the Petitioner's participation in the IRIS program based on mismanagement of funds.

THEREFORE, it is

ORDERED

That 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 Milwaukee,
Wisconsin, this 27th day of February, 2015

\sDebra Bursinger
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 February 27, 2015.

Division of Health Care Access and Accountability
Bureau of Long-Term Support