



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CWA/163520

PRELIMINARY RECITALS

Pursuant to a petition filed January 28, 2015, under Wis. Admin. Code § HA 3.03, to review a decision by The Management Group [“TMG”] in regard to Medical Assistance [“MA”], a Hearing was held via telephone on April 14, 2015. At petitioner’s request a Hearing scheduled for March 10, 2015 was rescheduled.

The issue for determination is whether it was correct for TMG to deny funding under the Include, Respect, I Self-Direct program [“IRIS”] for a computer and anti-virus software for petitioner.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

BY: [REDACTED] Quality Services Specialist
TMG
Suite 320
One South Pinckney Street
Madison, Wisconsin 53703

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (59 years old) is a resident of Jefferson County, Wisconsin.
2. Petitioner sustained a brain injury as the result of a Motor Vehicle Accident ["MVA"]; she has short-term memory processing difficulties but no noted memory impairments; she is diagnosed with end stage arthritis in all of her joints, anxiety, breast cancer, and carpal tunnel syndrome; she has significant pain issues, headaches, and limited mobility (she uses a walker); she has significant limitations in working and in participating in educational programs; she requires assistance with all Activities of daily Living ["ADLs"].
3. Petitioner lives alone.
4. Petitioner requested IRIS funding for a computer and anti-virus software.
5. Petitioner hopes to work toward obtaining home-based employment through the use of a computer.
6. Petitioner applied to the Wisconsin Department of Vocational Rehabilitation ["DVR"] for assistance but withdrew her application; DVR might fund a computer for use in petitioner's employment relayed goals.
7. By a *Notice of Action -- IRIS Program* dated December 8, 2014, TMG denied petitioner's request for IRIS funding for a computer and anti-virus software.

DISCUSSION

The IRIS program is a Home and Community Based Services program authorized under §1915 (c) of the Social Security Act and as approved by the Centers for Medicare and Medicaid Services ["CMS"]. The program provides funding for certain, specifically defined services to enrolled IRIS participants. In all cases, it is the expectation that natural and community supports or Medicaid card-coverable services will be used whenever available and that paid supports with funding from the IRIS program are the last means of obtaining those supports. Services approved on IRIS participant plans must be directly connected to individualized participant Long Term Care outcomes. *Medicaid IRIS Services Definitions and Codes Manual*, page 1.

Wisconsin is required to assure financial accountability for funds expended for IRIS. 42 C.F.R. § 441.302(b) (2012). In this regard, services funded by IRIS must be cost-effective and necessary to avoid institutionalization. 42 C.F.R. § 440.180(b)(9) (2012). IRIS funds must be used to pay for items that increase a participant's independence or substitute for human assistance. 42 C.F.R. § 440.482(b) (2012). IRIS funds may not be used to pay for goods, supports, or services that are the responsibility of another agency (such as vocational services provided by the Wisconsin Department of Vocational Rehabilitation ["DVR"]). *IRIS Funding for Goods, Supports and Services*, Policy: SC 16.1, Effective Date September 1, 2010 ["Policy 16.1"], page 2. In this case, DVR might fund a computer for use in petitioner's employment relayed goals. However, petitioner has withdrawn her DVR application. Under these circumstances, it was correct for TMG to deny IRIS funding for a computer and anti-virus software for petitioner.

It is noted that a prior Hearing *Decision* found that TMG correctly denied petitioner's request for a computer and related equipment. See, DHA Case No. CWA-157721 (Wis. Div. Hearings & Appeals October 28, 2014, rehearing denied November 24, 2014) (DHS).

CONCLUSIONS OF LAW

For the reasons discussed above, it was correct for TMG to deny IRIS funding for a computer and anti-virus software 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 11th day of May, 2015

\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 May 11, 2015.

Bureau of Long-Term Support