



FH

[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed May 21, 2015, under Wis. Admin. Code § HA 3.03, to review a decision by the Bureau of Long-Term Support in regard to Medical Assistance, a telephone hearing was held on July 07, 2015. The record was held open for a period of 10 days to allow the parties to submit additional documentation.

The issue for determination is whether the agency correctly sought to close IRIS because of billing discrepancies.

There appeared at that time and place 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]
Bureau of Long-Term Support
1 West Wilson
Madison, WI

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner has been eligible for the IRIS program. Her daughter, [REDACTED] was a paid care provider for her mother until 2012, when [REDACTED] was barred as a paid care provider due

- to a failed background check. Petitioner's grandson, [REDACTED] provided care to petitioner as a paid care provider since at least February, 2013.
3. On November 10, 2014, the respondent initiated a Fraud Allegation Review and Assessment (FARA), due to hours claimed by [REDACTED] that exceeded 24 hours per day. See, Exhibit G. The FARA review determined that petitioner had submitted up to 34 hours/day. The FARA review concluded that there may have been confusion about the proper hour submission. Petitioner was required to use an "in-out" timesheet format as a result of the FARA investigation, and Fraud Prevention Education was provided to petitioner on November 25, 2014. See, Exhibits F and E.
 4. The FARA inquiry was reopened in May of 2015, when the respondent learned that [REDACTED] was working through [REDACTED], in addition to providing petitioner with personal care services through Medicaid. The FARA inquiry reviewed [REDACTED] timesheets for the period of September 1, 2014, through October 31, 2014. It found that [REDACTED] claimed the provision of 24 hour care between petitioner and another IRIS participant, in addition to billing hours through [REDACTED]. See, Exhibits G, K, and L. Petitioner signed off on [REDACTED] hours.
 5. The reopened FARA inquiry also found that [REDACTED] had consistently submitted hours in excess of 30 hours/day, up to 40 hours/day from September 1, 2014, through October 31, 2014, between IRIS and [REDACTED]. See, Exhibits G, K, and L.
 6. The FARA inquiry noted billing discrepancies in May, 2015. [REDACTED] billed for overnight care every day of that month, and 8 hours of Supportive Home Care, while social media indicated that he travelled to Las Vegas, Nevada, on May 1, 2015. See, Exhibit G, pp 10-13. On May 1, 2015, [REDACTED] billed for caring for petitioner from 12:00 AM to 11:00 PM. The time sheet was authorized by petitioner.
 7. By a notice dated May 19, 2015, the IRIS agency informed petitioner that her enrollment would be terminated effective June 3, 2015, due to abuse of the IRIS budget resulting from overbilling. Exhibit B.

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>.

The agency in this case cited IRIS Policy 3.03.1, dated October 1, 2011 for its action to disenroll petitioner; a copy of the policy was included in the agency's hearing package (Exhibit C). The policy provides that a participant may be disenrolled when purchasing authority is mismanaged, including but not limited to possible fraud and misrepresentation/willful inaccurate reporting of services. There is a more recent policy at §10.1A.1, No. 18 of the IRIS Policy Manual: Work Instructions (updated February, 2015), a separate manual found at <http://www.dhs.wisconsin.gov/publications/P0/P00708a.pdf>. The policy there calls for involuntary disenrollment only in cases of substantiated fraud. If the activity is simply abuse of the program, there are a number of actions that can be taken but not disenrollment.

Petitioner's primary position at the hearing is that she did not intentionally overbill the program. Petitioner's daughter, [REDACTED], testified that she often signed the timesheets at issue here, and stated that, between 2009 and 2012, respondent's workers at the 20th and Wells location would fill out time sheets that she forgot. She stated that she would sign her mother's name and her son's ([REDACTED]) without objection from respondent's workers.

In response to the allegation that [REDACTED] submitted timesheets for the time that he was in Las Vegas, Nevada, petitioner testified that, even if it wasn't [REDACTED] providing her care, someone was. Her argument seemingly implying that regardless of the payee, services that her paid for were, in fact, provided. [REDACTED] testified that the erroneous billing was an accident because he did not realize that his brother, [REDACTED], had already submitted those hours. The respondent noted that [REDACTED] was most recently an active employee in 2012.

The record establishes that petitioner regularly signed off on time sheets that were for more hours than were approved. The FARA inquiry found that, from September 1, 2014, through October 31, 2014, [REDACTED] claimed the provision of 24 hour care between petitioner and another IRIS participant, in addition to billing hours through [REDACTED]. See, Exhibits G, K, and L. Petitioner signed off on [REDACTED] hours. The FARA inquiry also found that [REDACTED] had consistently submitted hours in excess of 30 hours/day, up to 40 hours/day from September 1, 2014, through October 31, 2014, between IRIS and [REDACTED]. See, Exhibits G, K, and L.

I am satisfied that the agency substantiated fraud in this case. It is clear that petitioner's grandson was overbilling in 2014. I cannot accept petitioner's claim that the overbilling was a mere mistake. This matter was brought to petitioner's attention in late 2014, and petitioner received additional training to prevent further abuse. Still, in 2015, [REDACTED] billed for hours when he was not even in the state, and the petitioner signed those time sheets.

I conclude that the agency action was justified. I note here that disenrollment from IRIS does not necessarily mean that petitioner is ineligible for all Department services; she 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. The IRIS agency can assist with the transition.

CONCLUSIONS OF LAW

The IRIS agency correctly sought to disenroll petitioner from the program due to intentional mismanagement of funds.

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 16th day of September, 2015

\sPeter McCombs
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 September 16, 2015.

Bureau of Long-Term Support