



FH

[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed June 23, 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 hearing was held on August 04, 2015, at Neillsville, Wisconsin.

The issue for determination is whether the IRIS agency incorrectly terminated program enrollment involuntarily due to fund mismanagement.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[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:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Clark County.

2. Petitioner's mother and guardian was educated on overspending and budgeting on 6/28/13, 11/27/13, 12/27/13, 3/13/14, 5/8/14, 8/21/14, 11/21/14, and 2/13/15.
3. The IRIS enrollment terms for petitioner allowed reimbursement for 200 miles per month and 2400 miles per year at 57 cents per mile. The payments were claimed by petitioner's own family for payment directly to them.
4. Petitioner also was approved for supportive home care for chores and meals and indirect supervision. These payments are also made to petitioner's family members.
5. Petitioner also was approved for self-directed personal cares which were also paid to her family members.
6. [REDACTED] continually overbilled the IRIS program during the period in question for care hours and mileage.

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 7.1A.1, for its action to disenroll petitioner. The policy provides that a participant may be disenrolled when IRIS funds are misappropriated, which includes "persistent overspending of the approved budget." In order to disenroll on this basis, the agency must demonstrate at least four attempts to develop the participant's budget management skills.

In this case, petitioner's mother concedes the repeated errors but simply asks for another chance. I have no such discretion. The agency supported its claim of persistent overspending as well as well more than four attempts to assist petitioner in correcting the errors. Disenrollment is justified.

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 included 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 by petitioner's service provider that was abetted by petitioner's guardian.

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.

[REDACTED]

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 8th day of September, 2015

\sJohn P. Tedesco
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 8, 2015.

Bureau of Long-Term Support