



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

[REDACTED]

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 07, 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 September 25, 2015, at Barron, Wisconsin.

The issue for determination is whether the petitioner is entitled to receive a stove with knobs on the front through the IRIS program.

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:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Barron County.
2. The petitioner receives Medical Assistance-Waiver services through IRIS.
3. The petitioner requests reimbursement through his MA-Waiver for a stove with knobs on the front.

4. The stove is a standard stove available in a regular appliance store. It is marketed to the general public and is not customized to accommodate the petitioner's disability. It would cost \$823.
5. The petitioner will not require institutionalization if he does not get the requested stove.

### DISCUSSION

The petitioner receives medical assistance benefits through IRIS, a fee-for-service alternative to Family Care, PACE, or Partnership for individuals requesting a long-term care support program in Family Care counties. *Medicaid Eligibility Handbook*, § 37.1.1. IRIS, which stands for Include, Respect, I Self-Direct, provides a variety of medical services to its recipients. The petitioner requests a stove with knobs on the front because he has trouble standing and reaching knobs that are on the back of a stove. IRIS denied his request because this is a standard appliance not customized specifically to meet his medical needs.

As an MA-Waiver service, IRIS may include the following services:

- (1) Case management services.
- (2) Homemaker services.
- (3) Home health aide services.
- (4) Personal care services.
- (5) Adult day health services.
- (6) Habilitation services.
- (7) Respite care services.
- (8) Day treatment or other partial hospitalization services, psychosocial rehabilitation services and clinic services (whether or not furnished in a facility) for individuals with chronic mental illness, subject to the conditions specified in paragraph (d) of this section.
- (9) Other services requested by the agency and approved by CMS as cost effective and necessary to avoid institutionalization.

42 CFR § 440.180(b)

The only waiver category the requested appliance fits under is "other services." It is not a habilitation service because these include prevocational services, educational services, and supportive employment services. 42 CFR § 440.180(c). To receive the benefit under the "other services" category, the petitioner must show that the refrigerator/freezer is "cost effective and necessary to avoid institutionalization." 42 CFR § 440.180(b)(9). I doubt whether this appliance—or any other individual item—will determine whether he remains in his own home. Still, there is little doubt that certain items make it easier for a disabled person to live on his own.

The IRIS program has policies that determine when it will pay for an item that increase a person's ability to function within his home. In general, it pays for items that customized to help him overcome his disability. Thus IRIS does not pay for items that are the responsibility of a home or apartment owner. And it does not pay for appliances "unless they are adaptive in nature and the participant who needs the adaptive appliance will be using it." To be considered customized the item must, among other things, be "designed to meet the participant's functional, vocational or medical or social needs." *IRIS Policy: SC 16.1*; see also *Medicaid Waiver Services Summary Definitions*, found online at [http://www.tmg-wis.com/iris/docs/addinfo/waiver\\_definitions.pdf](http://www.tmg-wis.com/iris/docs/addinfo/waiver_definitions.pdf). This policy conforms to the general medical assistance requirements that when determining whether a service is necessary, a medical assistance agency must review, among other things, the medical necessity of the service, the appropriateness of the service, the cost of the service, the extent to which less expensive alternative services are available, and whether the service is an effective and appropriate use of available services. Wis. Admin. Code, § DHS 107.02(3)(e)1.,2.,3.,6., and 7.

The requested stove is a standard model available in a regular appliance store. It is designed for and marketed to the general public rather than someone with the participant's functional, vocational or medical or social needs. As a standard stove, it is of the type that an owner of a home or furnished apartment would be expected to buy. If it costs more than a particular owner is willing to spend, any additional cost is because of features that are desirable to the general public and not just to the physically limited. Because of the petitioner's limitations, a stove with knobs on the front would make it easier for him to live in his residence than a model with knobs in the back. But because the requested appliance is a standard model available to the public and not customized to accommodate his disability, IRIS properly refused to pay for it.

### **CONCLUSIONS OF LAW**

The IRIS program properly denied the appliance requested by the petitioner because it is not medically necessary.

**THEREFORE, it is ORDERED**

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 Madison,  
Wisconsin, this 30th day of September, 2015

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\sMichael D. O'Brien  
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 30, 2015.

Bureau of Long-Term Support