



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 25, 2015, under Wis. Admin. Code, §HA 3.03, to review a decision by The Management Group to discontinue eligibility for the Include, Respect, I Self-Direct (IRIS) program, a hearing was held on October 21, 2015, by telephone.

The issue for determination is whether petitioner should be terminated from IRIS due to committing fraud within the program.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: [REDACTED]  
TMG  
1 S. Pinckney St., Suite 320  
Madison, WI 53703

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner receives services under the IRIS program. In June and July, 2015 her care worker was her daughter L.J. In late July it was reported that L.J. was not providing care for petitioner anymore, and petitioner reported that L.J.'s last day was June 23, 2015. L.J. died in Georgia on June 22, 2015.

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3. Petitioner submitted time sheets under L.J.'s name for several weeks after June 22. She later explained that her granddaughter actually was providing care in L.J.'s name.
  4. By a notice dated August 18, 2015 the IRIS agency informed petitioner that her eligibility would end September 2 because her request was made under fraudulent circumstances. Benefits have continued pending the appeal.

### **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>.

IRIS policies allow the program to end a participant's enrollment when fraud by the participant is substantiated. See §7.1A.1 of the IRIS Policy Manual: Work Instructions, a separate manual found at <http://www.dhs.wisconsin.gov/publications/P0/P00708a.pdf>. Fraud includes "intentionally performing or billing services improperly, including false claims." IRIS Policy Manual: Work Instructions, §10.1A.1, no. 14. Disenrollment from IRIS does not necessarily mean that the person is ineligible for all Department services; the person 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.

Petitioner testified that in the middle of July an IRIS representative told her that she could submit the forms as she did while her granddaughter's caregiver approval was pending. Indeed, petitioner applied for her granddaughter's approval on July 17, 2015, and then submitted time sheets for L.J. for the second half of June on the same day; on the June sheets petitioner wrote the final day of the month as "June 31," which no doubt raised eyebrows in the agency's fiscal office. She later submitted time sheets for L.J. for July on July 29. Also on July 29 petitioner submitted mileage claims for L.J. for May and June.

There are suspicions over whether L.J. ever provided services for petitioner. As pointed out, it was discovered that the bank account in which L.J.'s pay was deposited was actually petitioner's bank account. The bank account is not the immediate cause of the negative action, however. Instead it is the filing of claims for payments after L.J.'s death.

I conclude that the agency action was correct. Petitioner did not name the IRIS agent who told her to falsify her claims (repeatedly saying the generic "they" when referring to IRIS employees), but even if an agent did so, petitioner still filed false claims that she knew were false. Petitioner also said that she did not sign the time sheets, but the signature on the ones dated July 17 is very similar to the signature on petitioner's appeal letter.

When her daughter died unexpectedly, petitioner should have reported her death to the IRIS agency as soon as possible. The agency then could have arranged for alternative caregivers while petitioner obtained a new full-time one. Instead petitioner tried to have her granddaughter get paid under L.J.'s name, and petitioner filed false reports to do so.

### **CONCLUSIONS OF LAW**

The agency correctly sought to close petitioner's IRIS case because petitioner filed fraudulent claims on her caregiver's behalf after the caregiver's death.

THEREFORE, it is

**ORDERED**

That the petition for review 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**

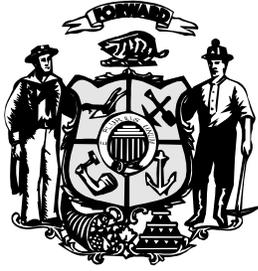
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those 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 27th day of October, 2015

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\sBrian C. Schneider  
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 October 27, 2015.

Bureau of Long-Term Support