



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

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In the Matter of

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

DECISION

CWA/168768

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 18, 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 record was held open 16 days at the petitioner’s request for submission of additional documents. I received a package from petitioner’s mother and a letter from Pastor [REDACTED].

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

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED] |  
[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 is an 18-year-old resident of Milwaukee County.
2. Petitioner has a number of diagnoses that affect his daily living including autism, cancer, heart disease, and a stroke. He enrolled in IRIS May 12, 2015. His mother is his authorized

representative as well as his primary caregiver. She provided supportive home care (SHC) and self-directed personal care (SDPC) services to petitioner.

3. In August, 2015, the agency began an inquiry into suspected fraudulent billing. Petitioner's mother initially reported working daily a minimum fifteen hours doing SHC and SDPC. By late June she regularly reported working 20 hours or more per day doing petitioner's SHC and SDPC. Petitioner's mother also was employed by the IRIS Consultant Agency as a consultant for other IRIS participants. During the inquiry it was discovered that on many of the days that petitioner's mother reported working up to 20 hours on petitioner's cares, she also was reporting to the Consultant Agency that she was working at that job. Again, beginning in late June, petitioner's mother regularly reported to the two separate agencies that she was working more than 24 hours per day. See the agency's Exhibit K.
4. On August 28, 2015 petitioner's consultant met with his mother to discuss the inquiry. She informed petitioner's mother that she should attend education regarding proper billing, and that the agency wanted petitioner's mother to start using a new timesheet format that would be more specific on her tasks and time. Petitioner's mother refused to accept the new time sheet.
5. The agency determined that petitioner's eligibility would be discontinued due to mismanagement of his funds coupled with the refusal to correct the mismanagement. By a letter dated September 2, 2015, the agency informed petitioner that IRIS would end September 18, 2015 due to fraudulent circumstances. Benefits were not ordered to be 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.

Obviously, a person cannot work more than 24 hours in a day; the claiming of more than 24 hours work in a day is fraudulent. Frankly, the idea that someone could do 20 hours of care services in a day also is incomprehensible. It is clear that petitioner's mother considered all time she spent with her son as caregiving time, because, as she put it, he could have an immediate need for care at any time. She also justified billing as an IRIS consultant and as her son's caregiver simultaneously because she was monitoring his condition while doing her consultant work. She justified her refusal to use time sheets by saying that she was being singled out. However, her overbilling warranted singling out.

Clearly there is a problem with IRIS procedure. I am puzzled that the agency does not specify a set number of hours for daily care services. The agency justifies the lack of specificity by noting that IRIS is a self-directed program in which the recipient is given freedom to direct his cares, as long as he stays within budget. Problems arise only when a recipient or caregiver takes advantage of that freedom by, for example, claiming an inordinate number of care hours.

In the end, I conclude that the agency's decision to close petitioner's IRIS case was warranted. Petitioner's mother might feel that she was justified in claiming the number of hours she claimed, but the simple fact is that she was misappropriating IRIS funds. A caregiver cannot bill for time simply spent sitting with the recipient (particularly when the recipient is the caregiver's son). Time should be billed only for actual hands-on services. The agency was willing to work with petitioner's mother to rectify the situation, but her refusal to accept any modification to the process left the agency with no choice.

Petitioner's mother complained that the agency re-started eligibility on September 28 instead of the September 18 closure date. The agency was not ordered to continue benefits by the Division of Hearings and Appeals, so it is unclear to me why the agency re-opened petitioner's case. If it did, the date it re-opened the case is not within the control of the Division of Hearings and Appeals. Petitioner's mother also complained that the agency again was demanding that she fill out new types of time sheets. That is an issue between her as caregiver and the agency. It is not an issue that affects petitioner's eligibility.

As noted above, petitioner remains eligible for community-based services under the Family Care Program. This decision upholds the termination of his self-directed services.

### **CONCLUSIONS OF LAW**

The agency correctly closed petitioner's IRIS case due to improper billing of services and substantiated fraud.

**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 9th day of November, 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 November 9, 2015.

Bureau of Long-Term Support