



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION



PRELIMINARY RECITALS

Pursuant to a petition filed October 15, 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 November 12, 2015.

The issue for determination is whether petitioner meets a level of care necessary for IRIS eligibility

There appeared at that time the following persons:

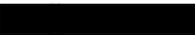
PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By:   
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 # ) is a resident of Milwaukee County.
2. Petitioner is an ongoing IRIS waiver program participant. He underwent an annual Long-Term Care Functional Screen (LTCFS) on September 21, 2015, and was determined ineligible based upon a Target Group determination that found he did not meet a qualifying group.

- [REDACTED]
3. By notice dated September 25, 2015, the agency informed petitioner that IRIS would close because he did not meet functional eligibility requirements.
  4. Petitioner has diabetes, constipation, vitamin D deficiency, hyperlipidemia, anemia, hypertension, and chronic renal impairment. He also is diagnosed with severe and persistent mental illness, and meets the Severe and Persistent Mental Illness Target Group, which is not an IRIS-qualifying target group.
  5. Petitioner's most recent LTCFS found petitioner independent in all Activities of Daily Living (ADL's), and independent in Instrumental Activities of Daily Living (IADL's) including meal preparation, laundry/chores, and telephone use. He requires assistance with IADL's in the areas of medication management, money management, and transportation (driving).

### 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.

The federal government has promulgated 42 C.F.R. §441.450 - .484 to provide general guidance for this program. Those regulations require that the Department's agent must assess the participant's needs and preferences (including health status) as a condition of IRIS participation. *Id.*, §441.466. The Department's agent must also develop a service plan based on the assessed needs. Further, "all of the State's applicable policies and procedures associated with service plan development must be carried out ..." *Id.* §441.468.

An IRIS participant must be elderly, or an adult with physical or developmental disabilities. See IRIS General Information at [www.dhs.wisconsin.gov/bdds/IRIS/general.htm](http://www.dhs.wisconsin.gov/bdds/IRIS/general.htm). The physical disabilities must be such that the person requires a level of care equal to the level of a nursing home. DHS Medicaid Eligibility Handbook, §37.1.3. IRIS plans of care are updated when a participant requests a change in the plan. See IRIS Program Policies found at [www.dhs.wisconsin.gov/bdds/IRIS/IRISPolicySummary.pdf](http://www.dhs.wisconsin.gov/bdds/IRIS/IRISPolicySummary.pdf). The plans also are updated at least on a yearly basis.

The issue in this case is whether the agency correctly determined that petitioner did not meet the IRIS target group of having a physical disability.

Based upon the evidence before me, I conclude that the agency was correct. A previous LTCFS selected the Physical Disability Target Group, but the more recent screen found nothing to substantiate this selection. The screener testified at hearing that she met with petitioner and noted no physical limitations. Petitioner testified that he has discussed alternative programs with his local Aging and Disability Resource Center, but that organization directed him to pursue IRIS enrollment. He also testified that his health has improved of late. While it is certain that petitioner suffers from a debilitating mental illness, he has not established any error in the respondent's finding of a lack of a physical disability.

The record does include findings of petitioner's physical diagnoses. However, the existence of impairments such as diabetes, chronic renal impairment, and anemia does not automatically qualify someone as physically disabled; there must be substantial functional limitations as well. Such limitations were not established at hearing.



**CONCLUSIONS OF LAW**

The IRIS agency correctly determined that petitioner does not meet the physically-disabled target group for the program required for eligibility.

**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 29th day of December, 2015

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Peter 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 December 29, 2015.

Bureau of Long-Term Support