



FH

[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed August 20, 2015, under Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on December 02, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency erred in its decision to disenroll petitioner from the IRIS Program.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner's Representative:

Emma Howard
2857 N 2nd St Lower
Milwaukee, WI 53212

Respondent:

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

By: [REDACTED]
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner was enrolled in the IRIS Program effective 4/3/15.
3. Petitioner had an obligation to pay a cost-share to maintain enrollment in IRIS.

- [REDACTED]
4. By the end of June 2015, petitioner had not paid his cost-share and his outstanding balance remained at \$837.54.
 5. At that time, the petitioner entered into a payment plan to pay the overdue amount over a period of 12 months and maintain enrollment by also beginning his monthly payments as of July 2015. Thus, as of July, petitioner was required to pay his regular monthly cost-share (\$322.08) as well as the past due amount per the payment plan to be paid over the following 12 months (an additional \$69.80 per month).
 6. In July, petitioner paid only \$69.
 7. The agency began the process to disenroll petitioner in August 2015.
 8. Petitioner filed a request for hearing with DHA on August 20, 2015. The agency continued program eligibility pending hearing decision.
 9. Petitioner paid \$304 on September 9, 2015. His remaining balance as of the end of September remains at \$1,717.27.
 10. Petitioner did not make any more payments toward the overdue balance or the monthly cost-share from September 9, 2015 until the day of the hearing on December 2, 2015.

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.

Cost sharing is the monthly amount a waiver participant has to contribute toward the cost of his/her waiver services. *MEH*, § 28.5.1. Payment of the cost share is a condition of eligibility. *Id.*

The facts in this case are largely undisputed. The cost-share was not paid for a period of time and remains overdue. Petitioner's position is that his representative with power of attorney, Ms. Emma Howard, has been misappropriating assets from petitioner and failed in her duties to properly direct payments to the IRIS program to maintain eligibility. Petitioner vigorously objected to representation by Ms. Howard at hearing despite Ms. Howard's continuing desire to do so.

It is possible that Ms. Howard is the dishonest person petitioner described who has taken advantage of petitioner. Indeed it is also possible that the cost-share was not paid for some other reason. Our hearing was not a trial relating to Ms. Howard's alleged wrongdoing. The issue in this case is whether the IRIS Program somehow was wrong for disenrolling petitioner from the program after months of non-payment and then months of failing to comply with the terms of a repayment agreement to address the overdue amount. The agency was not. Petitioner has been aware of the non-payment since entering into the repayment agreement on or around July 6, 2015. Petitioner could have addressed the issue then or made new arrangements for payments. But, the payments were not made as required even after that until the date of hearing when the past due amount totaled \$1926.98.

The agency made no error. It is unfortunate that petitioner has arrived in this circumstance. But, the program cannot provide benefits to those who fail to comply with the program rules.

CONCLUSIONS OF LAW

The agency did not err in effecting disenrollment because petitioner failed to pay the cost share as required and failed to comply with the payment agreement terms.

THEREFORE, it is

ORDERED

That this 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 7th day of January, 2016

\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 January 7, 2016.

Milwaukee Enrollment Services
Bureau of Long-Term Support