



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 September 19, 2015, under Wis. Admin. Code § HA 3.03, to review a decision by The Management Group [“TMG”] in regard to Medical Assistance [“MA”], a Hearing was held via telephone on November 17, 2015. The record was held open until November 23, 2015. At petitioner’s request Hearings scheduled for November 10, 2015 and October 13, 2015 were rescheduled. The Hearing for this matter was held at the same time as the Hearing for the following closely related matter concerning the same petitioner: CWA-168850.

The issue for determination is whether it was correct for TMG to deny Include, Respect, I Self-Direct program [“IRIS”] funding for massage therapy for petitioner.

There appeared at that time via telephone 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], Assistant Director  
The Management Group  
Suite 320  
One South Pinckney Street  
Madison, Wisconsin 53703

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

[REDACTED]

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]; 66 years old) is a resident of Milwaukee County, Wisconsin.
2. Petitioner has diagnoses of fibromyalgia, high igE syndrome, chronic back and shoulder pain, and arthritis. Exhibit #1.
3. Petitioner was receiving massage therapy paid for with IRIS funding. Exhibits #1 & #2.
4. By a *Notice of Action -- IRIS Program* dated August 10, 2015 TMG notified petitioner that effective August 31, 2015 IRIS would no longer provide funding for her massage therapy. Exhibit #1.

**DISCUSSION**

IRIS is a Home and Community Based Services program authorized under §1915 (c) of the Social Security Act and as approved by the Centers for Medicare and Medicaid Services [“CMS”]. *IRIS Policy Manual* (September 2015) [“IRIS Manual”] 1.0. The program provides funding for certain, specifically defined services to enrolled IRIS participants. In all cases, it is the expectation that natural and community supports or Medicaid card-coverable services will be used whenever available and that paid supports with funding from the IRIS program are the last means of obtaining those supports. IRIS Manual 5.6A.4. Services approved on IRIS participant plans must be directly connected to individualized participant Long Term Care outcomes. *Medicaid IRIS Services Definitions and Codes Manual*, page 1.

Wisconsin is required to assure financial accountability for funds expended for IRIS (and is subject to audit). 42 C.F.R. § 441.302(b) (2016). In this regard, services funded by IRIS must be cost-effective and necessary to avoid institutionalization. 42 C.F.R. § 440.180(b)(9) (2016). Permissible purchases with IRIS funds include items that increase a participant’s independence or substitute for human assistance. 42 C.F.R. § 441.482(a) (2016); See also IRIS Manual 5.4. IRIS is funding of last resort. All other sources of payment (informal supports, primary insurance, MA, and other government programs) must be exhausted before IRIS funds may be used. IRIS Manual 5.6A.4. Goods or services covered by health insurance, Medicare, or Medicaid (i.e. MA) are not allowable IRIS expenses. IRIS Manual 5.4B.

In this case there is no acceptable documentation to show that the massage therapy, or an appropriate substitute such as Physical Therapy [“PT”], is not covered by another source of payment (such as MA). Therefore, TMG was correct to deny additional funding.

Petitioner did provide some documentation that purports to show that massage therapy is not covered by MA -- but that documentation is not acceptable. It is not acceptable because it has been altered (the name and date of birth has been blacked-out and petitioner’s name and date of birth have been written in by hand). Thus raises questions as to its authenticity. Exhibit #2.

**CONCLUSIONS OF LAW**

For the reasons discussed above, it was correct for TMG to deny IRIS funding for massage therapy for petitioner.

**NOW, 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**

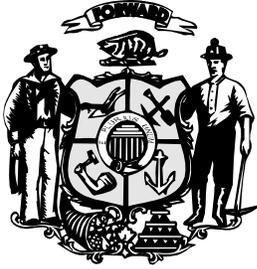
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those 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 7th day of January, 2016

---

\sSean P. Maloney  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 7, 2016.

Bureau of Long-Term Support