



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

CWA/171600

PRELIMINARY RECITALS

Pursuant to a petition filed January 25, 2016, under Wis. Admin. Code § HA 3.03, to review a decision by the Bureau of Long-Term Support in regard to Medical Assistance, a hearing was held on February 17, 2016, at Barron, Wisconsin.

The issue for determination is whether the petitioner is entitled to additional IRIS funding to allow her supportive home care workers to attend staff meetings and training.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: [Redacted]
Bureau of Long-Term Support
1 West Wilson
Madison, WI

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [Redacted]) is a resident of Barron County.
2. The petitioner is a developmentally disabled 24-year-old woman with an IQ below 75.
3. The petitioner receives medical assistance waiver services through IRIS. IRIS allocates \$2,270.71 to her to pay for her various services, including supportive home care.

4. The petitioner seeks additional funds to for monthly team meetings and training for her supportive home care providers. The Division of Long-Term Care denied her request on December 21, 2015.

DISCUSSION

The petitioner is developmentally disabled 22-year-old woman who receive medical assistance waiver services through the IRIS program. IRIS is an alternative to the Family Care and Partnership programs. It allows persons to direct their own care. *IRIS Policy Manual*, § 1.1. IRIS, which stands for “Include, Respect I Self-Direct,” was developed pursuant to a medical assistance waiver Wisconsin obtained under section 6087 of the Deficit Reduction Act of 2005 (DRA), and section 1915(j) of the Social Security Act. The program allocates \$2,270.71 to her to pay for her various services including supportive home care. She seeks additional funds to pay for training and monthly meetings for her supportive home care workers. The Bureau of Long-Term Support denied her request because it contends that the program cannot pay for these things.

The waiver document providing the program’s authority is available at <http://www.cms.gov/MedicaidStWaivProgDemoPGI/MWDL/list.asp>. The federal government’s general guidance for the program is found at 42 C.F.R. § 441.450 – 484. Those regulations require the Department’s agent to assess the participant’s needs and preferences, and then develop a service plan based on the assessed needs. *Id.*, § 441.466. The service plan may include personal care and homemaker services. *Id.*, § 440.180(b). Further, “all of the State’s applicable policies and procedures associated with service plan development must be carried out...” *Id.* § 441.468. Wisconsin IRIS policies are found online at <https://www.dhs.wisconsin.gov/publications/p0/p00708.pdf>. A related version that provides work instructions is found at <https://www.dhs.wisconsin.gov/publications/p0/p00708a.pdf>. Services not found in Appendix C of the 1915(c) home and community based waiver are prohibited. *IRIS Online Policy Manual*, § 5.4A and § 5.4B.

The IRIS program allows supportive home care under the following five circumstances:

1. Routine care services
2. Chore services such as lawn care, snow removal, laundry, and house cleaning.
3. Supervision to provide oversight of the participant to ensure that she completes a task safely and properly
4. Companionship care services for participants who do not need hands-on care but who require an attendant if the need for support arises.
5. Community Integration Events because the participant requires a worker at these events.

Nothing in the rules allows either the meetings or training sessions requested. This does not mean that these would not be helpful. But there are many helpful things the IRIS program does not cover because its funds are limited. I have no authority to ignore the program’s rules and substitute my own judgment about what should and should not be allowed. Because I find nothing in the IRIS rules that allows the services the petitioner requests, I must uphold the Bureau of Long-Term Support’s decision to deny them.

CONCLUSIONS OF LAW

The Bureau of Long-Term Support correctly denied the additional supportive home care services requested by the petitioner because those services are not allowed by the IRIS program’s waiver.

THEREFORE, it is

ORDERED

The petitioner's 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 21st day of March, 2016

\sMichael D. O'Brien
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 March 21, 2016.

Bureau of Long-Term Support