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STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: CWA - 211353

PRELIMINARY RECITALS

Pursuant to a petition filed on December 11, 2023, under Wis. Admin. Code § HA 3.03, to review a decision by the Bureau of Long-Term Support regarding Medical Assistance (MA), a hearing was held on February 1, 2024, by telephone.

The issue for determination is whether the respondent correctly processed petitioner's IRIS enrollment during the renewal of his MA enrollment.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Cynthia Pereira
Bureau of Long-Term Support
PO Box 7851
Madison, WI 53707-7851

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County. Petitioner has been enrolled in the IRIS program since December 13, 2012.
2. Petitioner was notified that he needed to complete his Medical Assistance (MA) renewal no later than October 31, 2023. On October 23, 2023, the petitioner called to complete his MA renewal. At time, the agency pended his case for verification of petitioner's assets.
3. On October 24, 2023, a verification request letter was mailed to the member, which identified a verification due date of November 13, 2023.
4. On November 13, 2023, an About Your Benefits letter was mailed to petitioner notifying him that his MA enrollment ended effective November 1, 2023, based upon his failure to produce verification of his assets.
5. On November 20, 2023, the agency updated petitioner's case with the verification that he provided. Based upon the verified assets, the agency determined that petitioner's MA renewal was approved. On November 21, 2023, a positive notice was issued to petitioner indicating that he was open for MA coverage effective November 1, 2023.
6. The Department of Health Services (DHS) automatically disenrolls individuals from IRIS if they lose Medicaid eligibility.
7. Petitioner was automatically involuntarily disenrolled from IRIS effective October 31, 2023 because his MA closed. However, since his MA renewal was completed within 30 days of closure, the agency processed an expedited re-enrollment.
8. The agency concluded that, per the CARES Confirmed Assistance Group Summary, petitioner's MA was confirmed open on November 20, 2023. That is the date that petitioner's IRIS reenrollment commenced. Petitioner experienced a gap in his IRIS enrollment between November 1, 2023 and November 19, 2023.
9. Petitioner filed an appeal with the Division of Hearings and Appeals on December 11, 2023.

DISCUSSION

The Include, Respect, I Self-Direct (IRIS) program is a Medical Assistance long term care waiver program that serves elderly individuals and adults with physical and developmental disabilities. IRIS is an alternative to Family Care, Partnership, and PACE—all of which are managed long term care waiver programs. The IRIS program, in contrast, is designed to allow participants to direct their own care and to hire and direct their own workers. The broad purpose of all of these programs, including IRIS, is to help participants design and implement home and community based services as an alternative to institutional care. *See IRIS Policy Manual §1.1B, Medicaid Eligibility Handbook §28.1, et. seq. and 42 C.F.R. §441.300, et. seq.*

The IRIS waiver application most recently approved by the Centers for Medicare and Medicaid Services (CMS) is available on-line at <https://www.dhs.wisconsin.gov/iris/hcbw.pdf>. See *Application for 1915(c) HCBS Waiver: WI.0484.R03.00 - Jan 01, 2021*. State policies governing administration of the IRIS program are included in the *IRIS Policy Manual* (available at <http://www.dhs.wisconsin.gov/publications/P0/P00708.pdf>), *IRIS Work Instructions* (available at <http://www.dhs.wisconsin.gov/publications/P0/P00708a.pdf>), and *IRIS Service Definition Manual* (available at <https://www.dhs.wisconsin.gov/publications/p00708b.pdf>).

The Department of Health Services is the state agency that oversees and administers the IRIS program and it contracts with and/or assigns specific operational duties to each of the following: Aging and Disability Resource Centers (“ADRCs”), IRIS consultant agencies (“ICAs”), IRIS fiscal employer agents (“FEAs”), and income maintenance agencies (“IM agencies”).

Petitioner filed an appeal because he was involuntarily disenrolled from the IRIS program from November 1, 2023 through November 19, 2023 and his providers are therefore unable to be paid for care they provided him during that time period. The respondent contended that petitioner cannot receive coverage of long-term care services unless he is currently enrolled in the IRIS program and cited the following IRIS program policy in support of that position:

An IRIS participant’s enrollment date refers to the date of activation of the service authorization; therefore, the IRIS program prohibits the payment of providers and/or participant-hired workers prior to the enrollment date.

IRIS Policy Manual, §5.5B.

Respondent explained that Petitioner was involuntarily disenrolled from IRIS because the IM agency temporarily terminated his Medicaid eligibility from November 1, 2023 through November 19, 2023 while it was reviewing his renewal of his Medicaid benefits. As detailed in the Findings of Fact, upon the IM agency’s completion of that renewal on November 20, 2023, the IM agency found that Petitioner remained eligible for Medicaid and the IM agency backdated his Medicaid eligibility to November 1, 2023.

Respondent further explained that TMG, Respondent’s ICA, expedited his re-enrollment into IRIS and, pursuant to instructions provided by the Department of Health Services, made his re-enrollment effective as of November 20, 2023 which was the date the IM agency completed its work. Respondent’s representative testified, however, that it was not possible to backdate his IRIS enrollment to cover that gap.

Respondent’s action in involuntarily enrolling Petitioner from November 1 through November 19, 2023 is consistent with the following recently published IRIS policy:

Once enrolled in BadgerCare Plus or Medicaid, a renewal must be completed at least once each year. The IM agency will mail a letter to the participant the month before the renewal is due. The renewal is conducted by the IM agency and can be done online at access.wi.gov, by phone, by mail, by fax, or in person. The renewal ensures the participant continues to meet all program rules and is receiving appropriate benefits. If continued financial eligibility for Medicaid is not confirmed, then the participant becomes ineligible for the program and will be disenrolled (see Enrollment – Disenrollment and Suspensions).

IRIS Policy and Procedure Publication P-03515 §B.1.ii.

Based upon the foregoing policy language, in a memo dated September 18, 2023, the Division of Medicaid Services' Bureau of Quality Oversight informed all Wisconsin ISAs:

During COVID unwinding DHS has implemented a temporary process that allows for an *expedited re-enrollment* to minimize the impact to IRIS participants supports and services. Participants who lost and regained Medicaid within the following month of their lapse were allowed to re-enroll into the IRIS program without going through the standard enrollment process. The Department uses the CARES system to identify the date in which Medicaid was established to serve as the new IRIS enrollment date.

In these instances, there is typically several days in which the IRIS participant was not enrolled in the IRIS program which prohibits the Department from paying for services rendered during this period.

Exhibit R-B1.

Petitioner acknowledged that he temporarily lost Medicaid eligibility but argued, in essence, that it is illogical to have a scenario where he is determined eligible for Medicaid, but not for IRIS enrollment. While I may agree with that contention, the respondent has a specific policy acknowledging that such scenarios may occur, and that policy addresses the impact of a temporary loss of Medicaid eligibility on IRIS enrollment. Notably, that policy does not permit backdating of IRIS enrollment.

The petitioner has in effect argued that the program standard is unfair and that the administrative law judge should grant him relief from the program requirements. It is the long-standing policy of the Division of Hearings & Appeals, Public Assistance & Social Services Unit, that the Department's assigned administrative law judges do not possess equitable powers, and cannot base a ruling upon an idea of what is deemed fair. See, *Wisconsin Socialist Workers 1976 Campaign Committee v. McCann*, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. Under law, he was correctly disenrolled from the IRIS program when his Medicaid enrollment terminated effective November 1, 2023, his IRIS enrollment was correctly reinstated on November 20, 2023, when the IM agency determined that his renewal could be approved. I am unable to find any error by the respondent, as it has complied with all relevant IRIS policies and regulations, and I am without any equitable powers to direct any remedy beyond the remedies available under law.

CONCLUSIONS OF LAW

1. The respondent correctly disenrolled petitioner from the IRIS program when his Medicaid enrollment ended.
2. The respondent correctly reenrolled petitioner via its temporary IRIS expedited re-enrollment process.

THEREFORE, it is

ORDERED

That petitioner's appeal 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, 4822 Madison Yards Way, 5th Floor North, 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

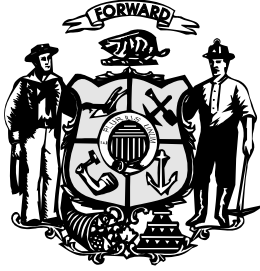
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 14th day of March, 2024



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 March 14, 2024.

Bureau of Long-Term Support