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**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

████████████████████  
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████████████████████

**DECISION**  
Case #: CWA - 212769

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on March 22, 2024, 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 April 24, 2024, by telephone.

The issue for determination is whether the agency properly seeks to disenroll Petitioner from the IRIS Program based on a finding that she is no longer functionally eligible.

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: Becky Glam, Connections  
Bureau of Long-Term Support  
PO Box 7851  
Madison, WI 53707-7851

**ADMINISTRATIVE LAW JUDGE:**

Teresa A. Perez  
Division of Hearings and Appeals

## FINDINGS OF FACT

1. Petitioner is a 73-year old resident of Rock County who has been enrolled in the IRIS Program as a member of the “frail elder” target group for approximately five years.
2. Petitioner resides in a home with her sister.
3. Petitioner’s diagnoses include interstitial lung disease, generalized osteoarthritis and osteoarthritis of the AC Joint, hypothyroidism, hyperlipidemia, obesity, pernicious anemia, hypertension, bilateral foot pain, bilateral low back pain with sciatica, degenerative lumbar spinal stenosis, diffuse idiopathic skeletal hyperostosis, and dizziness.
4. On March 13, 2023, the ICA completed a long term care functional screen (LTCFS) as part of Petitioner’s annual eligibility review. The screener determined the Petitioner required assistance with the following activities of daily living (ADLs): bathing, dressing, mobility in the home, toileting, and transferring, and the following instrumental activities of daily living (IADLs): meal preparation, laundry/chores, and transportation. This resulted in a finding that she remained functionally eligible for IRIS.
5. On March 5, 2024, the ICA completed another LTCFS. The screener determined that Petitioner continues to require assistance with bathing but that a helper need not be present. This contradicted the Notes section of the LTCFS which stated that Petitioner’s daughter must shampoo her hair and help wash her body. The screener found that she is now independent with all other activities of daily living. The screener determined the Petitioner continues to require assistance with the following instrumental activities of daily living (IADLs): meal preparation, laundry/chores, and transportation. This resulted in a finding that Petitioner is no longer functionally eligible for IRIS.
6. On March 11, 2024, the IRIS agency issued a Notice of Action to the Petitioner informing her that she would be disenrolled from the IRIS program due to no longer meeting the functional eligibility requirements.
7. On March 22, 2024, the Petitioner filed an appeal with the Division of Hearings and Appeals.

## DISCUSSION

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. To qualify for a nursing home level of care a person must have a long-term care condition expected to last at least one year. See Overview of the Long-Term Care Functional Screen, §1.2, found at [www.dhs.wisconsin.gov/lcicare/FunctionalScreen/WebCT/instructions1.htm](http://www.dhs.wisconsin.gov/lcicare/FunctionalScreen/WebCT/instructions1.htm).

IRIS plans of care are updated on an annual basis or 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 Department has developed a computerized functional assessment screening system. The system relies upon an interview with a quality assurance screener who has at least a Bachelor of Science degree in a health or human services related field, with at least one year of experience working with the target populations (or, if not, an individual otherwise specifically approved by the Department based upon like combination of education and experience). The screener asks the applicant, or a recipient at a periodic review, questions about his or her medical conditions, needs, cares, skills, activities of daily living, and utilization of professional medical providers to meet these needs. The assessor then submits the Functional Screen Report for the person to the Department's Division of Disability and Elder Services. The Department enters the Long-Term Functional Screen data into a computer program to see if the person meets any of the required levels of care. If the assessor enters information into the functional screen correctly, then it is assumed that the computer will accurately determine the level of care.

Wis. Admin. Code, §DHS 10.33(2)(c) defines comprehensive functional capacity:

(c) Comprehensive functional capacity level. A person is functionally eligible at the comprehensive level if the person requires ongoing care, assistance, or supervision from another person, as is evidenced by any of the following findings from application of the functional screening:

1. The person cannot safely or appropriately perform 3 or more activities of daily living.
2. The person cannot safely or appropriately perform 2 or more ADLs and one or more instrumental activities of daily living.
3. The person cannot safely or appropriately perform 5 or more IADLs.
4. The person cannot safely or appropriately perform one or more ADL and 3 or more IADLs and has cognitive impairment.
5. The person cannot safely or appropriately perform 4 or more IADLs and has cognitive impairment... [No. 6 omitted as irrelevant to this case].

Comprehensive functional capacity level is equivalent to nursing home level. See Wis. Stat., §46.286. Although the above definition is found in the administrative code chapter relating to the Family Care Program, Division of Hearings and Appeals administrative law judges have applied the definition to the IRIS program as well. In August, 2014, the Deputy Secretary issued a Final Decision in case no. CWA-157032 holding that the code definition does not apply to the IRIS program. That decision was vacated by the Department in April 2015, as part of a settlement of a Circuit Court appeal of that case. Thus, DHA continues to apply the definition of comprehensive, nursing home level of care to IRIS, as set out in Wis. Admin. Code, §DHS 10.33(2)(c).

In this case, the IRIS agency noted that the comprehensive assessment done this year as evidenced by the LTCFS demonstrate that the Petitioner no longer meets a nursing home level of care and is therefore no longer functionally eligible for the IRIS program.

The screener who conducted Petitioner's 2024 LTCFS did not appear at hearing and the agency did not offer any notes from her regarding the specific questions that she asked Petitioner during the screen. Petitioner's manager, who has never met Petitioner, testified that she reviewed the LTCFS and agreed with it.

Petitioner testified at the hearing that she disagreed with some of the information that the screener had entered. Petitioner testified that she needs help bathing herself including the assistance of someone to help wash her body; that she uses her cane and walker in the house and that she has fallen recently; that her daughter helps her put her pants and underwear on, that she has severe hip pain, and that she has to physically lift her leg with her hands as her daughter helps to put her pants on. Petitioner testified that she is independent with toileting and transferring but acknowledged that she has to rock back and forth and grab onto her dresser to get out of bed. Petitioner testified that she relies on her sister, with whom she resides, to help her make meals because Petitioner becomes too dizzy and short of breath to complete that activity.

Petitioner's testimony was detailed and credible and the symptoms she identified as causing her the most limitations (e.g., shortness of breath, dizziness, pain) were consistent with her diagnoses and prior LTCFS. Based on Petitioner's testimony, I find that Petitioner is unable to safely and appropriately complete at least the following ADLs: bathing and dressing, and that she is unable to safely and appropriately complete the following IADLs: meal preparation, laundry/chores, and transportation. Petitioner thus continues to be functionally eligible for IRIS pursuant to Wis. Admin. Code §10.33(2)(c)2.

### CONCLUSIONS OF LAW

Petitioner remains functionally eligible for the IRIS Program.

**THEREFORE, it is**

**ORDERED**

That the matter is remanded to the agency to take all administrative steps necessary to reflect that Petitioner remains functionally eligible for IRIS; to cease any effort to disenroll her from the Program; and to notify Petitioner in writing that it has done so. The agency shall comply with this order within 10 days of the date of this decision.

### **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, 5<sup>th</sup> 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.

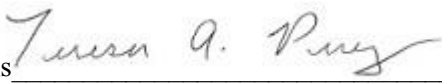
The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

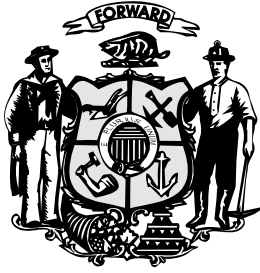
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 10th day of June, 2024

  
s \_\_\_\_\_

Teresa A. Perez  
Administrative Law Judge  
Division of Hearings and Appeals



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

Brian Hayes, Administrator  
5<sup>th</sup> Floor North  
4822 Madison Yards Way  
Madison, WI 53705-5400

Telephone: (608) 266-7709  
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 June 10, 2024.

Bureau of Long-Term Support