



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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**

Case #: CWA - 212695

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on March 19, 2024, under Wis. Admin. Code § HA 3.03, to review the Department of Health Services' effort to collect IRIS cost shares that Petitioner did not pay from October 2019 through February 2020, a hearing was held on May 22, 2024, by telephone.

The issue for determination is whether the Division of Hearings and Appeals has the authority to order the Department of Health Services to cease efforts to recover unpaid IRIS monthly cost shares from Petitioner in light of an Order of Discharge issued by the Bankruptcy Court, Western District of Wisconsin.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Jennifer Madera, TMG  
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 resident of Pierce County who has been enrolled in IRIS since 2016.
2. Petitioner was enrolled in the Medical Assistance Purchase Plan [“MAPP”] from May 1, 2017 through December 31, 2018, from July 1, 2019 through September 20, 2019, and from February 1, 2024 through the current date.
3. In any month that Petitioner was enrolled in both MAPP and IRIS, she was not assessed an IRIS cost share.
4. From October 2019 through February 20, 2020, Petitioner was charged an IRIS cost share as a condition of IRIS eligibility. The total amount of the cost shares that she was charged for those five months is \$1,102.50. Petitioner did not pay any of those monthly cost shares.
5. In at least some of the months that Petitioner was enrolled in MAPP, she was charged a premium as a condition of MAPP eligibility. It is unknown whether she paid any of those premiums.
6. Petitioner filed a petition for bankruptcy on an unknown date prior to March 5, 2022. On March 5, 2022, the United States Bankruptcy, Western District of Wisconsin issued a discharge under 11 U.S.C. §727.
7. On or about March 5, 2022, the Bankruptcy Noticing Center issued notice of the discharge to the Department of Health Services and to the Saint Croix Department of Health and Human Services. The notice sent to the Department of Health Services may have been addressed to “Mapp Program”. It is unknown whether Petitioner had MAPP premium-related debt.
8. Petitioner was disenrolled from IRIS from December 1 through December 7, 2023 because she completed a renewal after the deadline to do so.
9. Effective December 8, 2023, Petitioner was re-enrolled in the IRIS program contingent on her verbal agreement to repay the \$1,102.50 IRIS cost share balance.
10. Petitioner signed an IRIS Program Cost Share Repayment Agreement on February 15, 2024. Her first payment was due on March 1, 2024. She has not made any payments pursuant to that agreement because she believes that her bankruptcy relieved her of that obligation.
11. On March 5, 2024, Attorney Urosh Piletich, who represented Petitioner in the bankruptcy case, notified TMG of the bankruptcy court’s discharge order and TMG forwarded the discharge order to staff at the Department of Health Services. It is unknown whether that information was forwarded to legal counsel for the Department of Health Services.
12. Petitioner has not received a notice from the Department of Health Services, income maintenance consortium, or TMG stating that she is no longer eligible for Community Waivers or that she is being disenrolled from the IRIS Program.
13. Petitioner filed a request for fair hearing with the Division of Hearing and Appeals on March 19, 2024 asserting that the Department may not recover the \$1,102.50 cost share balance because it was discharged pursuant to her bankruptcy.

## DISCUSSION

Petitioner believes that she should not have to repay the \$1,102.50 of monthly cost share obligations that she incurred for the time period October 2019 through February 2020 because she filed for bankruptcy sometime after that, and an Order of Discharge was issued in March 2022. The representative for TMG at the hearing provided a copy of an e-mail that Petitioner’s bankruptcy attorney recently sent to TMG in which he asserted that TMG must stop trying to collect this debt. TMG forwarded that correspondence to the Department of Health Services to ask for advice. Representatives from the Department of Health Services advised TMG that the issue must be resolved through a fair hearing.

However, I must find that the Division of Hearings and Appeals does not have the authority to grant Petitioner the relief that she seeks. There are two reasons for this.

First, neither the Department of Health Services, the income maintenance consortium, nor TMG has issued a notice of termination to Petitioner. There is thus no negative action for me to review. The parties would like me to address an action that they believe is likely to occur—namely, that Petitioner will be found ineligible for Community Waivers based on failure to pay her outstanding cost shares and thus disenrolled from the IRIS Program. The Division of Hearings and Appeals cannot however rule on actions that have not yet occurred.

Second and more importantly, the Secretary-designee of the Department of Health Services has ruled that the Division of Hearings and Appeals “lacks subject matter jurisdiction and competency to issue any decision in a bankruptcy matter before the federal bankruptcy courts.” DHA Case No. MAC-198253, p.2 (June 8, 2020). In that decision, the Secretary-designee specifically addressed the question central to this case: a “petitioner must pursue any relief that [she] believes she is entitled to before the federal bankruptcy court. This would include . . . whether any specific debt is subject to discharge through the bankruptcy proceeding.” Id. Although Petitioner’s bankruptcy case may be closed, it is the bankruptcy court that has authority to enforce its own orders, not the Division of Hearings and Appeals.

## CONCLUSIONS OF LAW

- (1) Petitioner’s appeal is not ripe for consideration because no negative action has yet been taken by the Department of Health Services or its contractors.
- (2) The Division of Hearings and Appeals does not have the authority to enforce an Order for Discharge issued by a federal bankruptcy court.

**THEREFORE, it is**

**ORDERED**

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, 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.

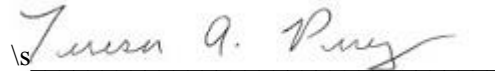
The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

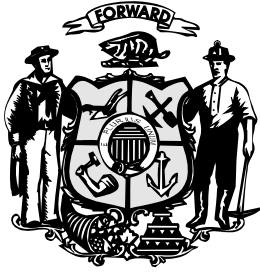
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 24th day of June, 2024



Teresa A. Perez  
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 June 24, 2024.

Bureau of Long-Term Support