



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of



**DECISION**  
Case #: CWA - 213089

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on April 19, 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 May 30, 2024, by telephone.

The issue for determination is whether the agency had the authority to deny Petitioner's request for enrollment into the IRIS program because he previously disenrolled.

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 Glamm  
Bureau of Long-Term Support  
PO Box 7851  
Madison, WI 53707-7851

**ADMINISTRATIVE LAW JUDGE:**

Nicole Bjork  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Milwaukee County.

2. Petitioner had previously been enrolled in IRIS from September 11, 2019, through September 17, 2022.
3. While previously enrolled in IRIS, on June 9, 2020, a Fraud Allegation Review and Assessment (FARA) case was opened against Petitioner with the Office of Inspector General (OIG). At that time, the agency issued a substantiated fraud ruling finding that Petitioner owned the agencies that were providing supportive home care to him through his IRIS plan. The fraud ruling included an overbilling of \$17,314. After the substantiated fraud ruling, Petitioner was disenrolled from IRIS.
4. Petitioner has tried unsuccessfully to reenroll in IRIS on October 20, 2023, December 15, 2023, and April 2, 2024. Each time the referrals have been withdrawn due to the fraud case, which remains open and ongoing.
5. On March 22, 2024, Petitioner asked the Milwaukee County Aging and Disability Resource Center to be enrolled in IRIS Connections. A referral for enrollment was made to Connections on April 3, 2024.
6. On April 15, 2024, the agency sent Petitioner a notice informing him that his request for enrollment was being denied due to his previous disenrollment and the circumstances surrounding that disenrollment.
7. Petitioner filed a timely appeal.

### DISCUSSION

The IRIS program is a Medical Assistance (MA) home and community-based long term care waiver program authorized under §1915(c) of the Social Security Act. IRIS is an alternative to Family Care, Partnership, and PACE—all of which are managed care 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 waiver approved by the Centers for Medicare and Medicaid Services (CMS) which proves the program's authority is available at <https://www.dhs.wisconsin.gov/iris/hcbw.pdf> . 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> ) and IRIS Work Instructions (available at <http://www.dhs.wisconsin.gov/publications/P0/P00708a.pdf> ).

The agency has the right to deny an application for the IRIS program during the referral stage for the following reasons: cost share in arrears, substantiated fraud during a previous enrollment in IRIS or another long term care program, living in an ineligible residential setting, or inability or unwillingness to develop an Individual Support and Service Plan (ISSP) that ensures the participant's health and safety. IRIS Policy Manual: Work Instructions, 3.3A.1.

Due to the previous disenrollment related to fraud, the agency has the authority to deny an application. The Division of Hearings and Appeals and assigned administrative law judges do not have equitable powers, or any authority to create an exception to the established rules. 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, the agency has the authority to deny enrollment under these circumstances. I have no power to override the agency's determination.

**CONCLUSIONS OF LAW**

The agency has the authority to deny Petitioner’s request for enrollment in IRIS due to his previous disenrollment related to fraud and the Division of Hearings and Appeals has no authority to create an exception or overrule the agency’s determination.

**THEREFORE, it is ORDERED**

That this 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.

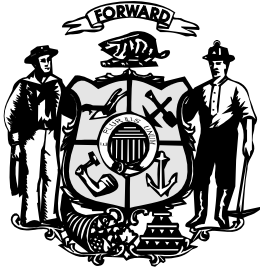
**APPEAL TO COURT**

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 Milwaukee,  
Wisconsin, this 2nd day of July, 2024

\s \_\_\_\_\_  
Nicole Bjork  
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 July 2, 2024.

Bureau of Long-Term Support