



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

**DECISION**  
Case #: CWA - 213191

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on April 25, 2024, under Wis. Admin. Code § HA 3.03, to review a decision by the Winnebago County Department of Human Services regarding Medical Assistance (MA), a hearing was held on June 13, 2024, by telephone.

The issue for determination is whether Petitioner's MA benefits were correctly determined when she was placed in Group A.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

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

By: Janet Williams

Winnebago County Department of Human Services  
220 Washington Ave.  
PO Box 2187  
Oshkosh, WI 54903-2187

**ADMINISTRATIVE LAW JUDGE:**

Nicole Bjork  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Winnebago County.

2. Since February 2019, Petitioner has been enrolled in Group B waivers, which includes spousal allocation and also included her room and board.
3. Due to Covid policies, Petitioner did not have to complete MA renewals.
4. In November 2023, Petitioner completed her first post Covid renewal. After completing her renewal, her husband and daughter provided additional information to the agency regarding Petitioner's assets and income. Petitioner's assets were determined to be below \$2000. Petitioner's reduced assets coupled with her income placed her in Group A rather than Group B.
5. On March 20, 2024, the agency sent Petitioner a notice informing her that her MA had changed and that she was being placed in Group A rather than Group B. With this change, Petitioner's spouse would no longer receive a spousal allocation.
6. Petitioner filed an appeal. She does not dispute her assets or her income amount. However, she would like to be placed back into Group B because she and her husband cannot afford to pay for their expenses if the spousal allocation is removed. Petitioner would also like her husband's income to be considered in the calculation and not solely hers.

### DISCUSSION

The IRIS program was developed pursuant to a Medical Assistance waiver obtained by the State of Wisconsin, pursuant to section 6087 of the Deficit Reduction Act of 2005 (DRA), and section 1915(j) of the Social Security Act. It is a self-directed personal care program. IRIS participants with qualifying income (up to 300% of the Federal Poverty Level) are required to pay a share of costs, or "cost share" for continued eligibility for IRIS program services and supports. 42 CFR §447.50 and 447.60; see also IRIS Policy Manual, §2.2B.2.2

Recipients of long-term care waiver services in Wisconsin are placed into one of three financial eligibility groups: Group A, Group B, or Group B Plus. Medicaid Eligibility Handbook (MEH) §§28.6.2 and 28.6.3. Group A members include individuals who are eligible for MAPP as well as individuals eligible for the following full-benefit Medicaid subprograms: Katie Beckett, Institutional Medicaid, BadgerCare Plus, SSI-related Medicaid (categorically or medically needy), Foster Care Medicaid, Adoption Assistance, Medicaid Met Deductibles, Wisconsin Well Woman Medicaid and SSI-Medicaid. MEH §28.6.2 and 21.2.

In this case, Petitioner was previously in Group B but was switched to Group A. Petitioner would like to be moved back to Group B. Petitioner did not dispute her income amount, or assets as noted during the hearing. However, Petitioner asked that her husband's income be included also. However, as noted in the regulations above, only the member's income is listed under the regulations. Further, Petitioner did not dispute the calculations, but noted that she simply cannot afford to meet all of her expenses if she is required to pay this cost share, room and board, and her husband no longer receives a spousal allocation.

I sympathize with Petitioner. However, administrative law judges do not have any authority to create exceptions to the rules. I have no power to move Petitioner back into Group B when the calculations put her into Group A and her income information is correct as well as her asset information. It is the long-standing policy of the Division of Hearings & Appeals 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 calculations place her in Group A; no exception applies, and I am without any equitable powers to direct any remedy beyond the remedies available under law.

**CONCLUSIONS OF LAW**

The agency correctly determined Petitioner’s MA.

**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.

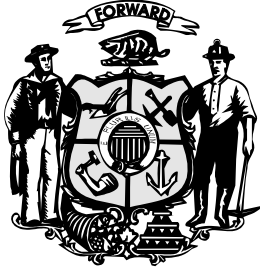
**APPEAL TO COURT**

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 15th 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 15, 2024.

Winnebago County Department of Human Services  
Bureau of Long-Term Support