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

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In the Matter of



**DECISION**  
Case #: CWA - 212824

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on March 28, 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 22, 2024, by telephone. A hearing scheduled for May 1, 2024 was rescheduled at the request of the petitioner and/or her representative.

The issue for determination is whether the respondent correctly denied petitioner's Budget Amendment request to fund a 4% increase sought by her day programming provider.

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: Melanie Malm  
Bureau of Long-Term Support  
PO Box 7851  
Madison, WI 53707-7851

**ADMINISTRATIVE LAW JUDGE:**

Jason M. Grace  
Division of Hearings and Appeals

## FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Columbia County who participates in the IRIS program through TMG, her IRIS consulting agency.
2. Petitioner's diagnoses include Intellectual Disability, Hypothyroidism, Mixed Hyperlipidemia, Noonan's Syndrome, Chronic Sinusitis, Cataract, Astigmatism, Hyperopia, Developmental Delay, and Auto-Immune Disease. She requires assistance with the activities of daily living of bathing, dressing, and toileting. She further requires assistance with the instrumental activities of daily living of meal prep, medication management, money management, transportation, and laundry/chores.
3. The petitioner's current IRIS Individual Support and Services Plan (ISSP) is divided among community transportation, community-based day services, facility-based day series, massage therapy, and supportive home care. She further has a budget amendment for day services.
4. The petitioner currently attends day services programming with [REDACTED]
5. In April 2023, [REDACTED] sent a letter to IRIS participants requesting a rate increase of 4% for all services.
6. The petitioner requested a budget amendment to fund the 4 % rate increase requested by [REDACTED].
7. By notice dated March 14, 2024, the Department denied the BA request. The grounds for the denial set forth in the notice were that the request is not the most cost-effective way to support the petitioner's outcome or necessary to avoid institutionalization. It was also indicated that the rate being requested is not competitive compared to rates by other long-term care providers. It was further indicated that the IRIS Program had granted [REDACTED] a substantial increase in July 2022 in addition to the 5% American Rescue Plan Act (ARPA) funds that were added to the provider rates in January 2022.
8. The petitioner timely appealed.

## DISCUSSION

The IRIS program is a Medicaid 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 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, IRIS consultant agencies, IRIS fiscal employer agents, and income maintenance agencies (IM).

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 CWA-201234 3 <http://www.dhs.wisconsin.gov/publications/P0/P00708a.pdf>), and IRIS Service Definition Manual (available at <https://www.dhs.wisconsin.gov/publications/p00708b.pdf>).

Consistent with the terms of the approved waiver, every IRIS participant is assigned a budget which is generated based on information obtained during a screening of the participant's long-term care functional needs. Relevant program policy provides:

The individual budget calculation for IRIS is based upon characteristics, and long-term support needs as collected on the Long-term care Functional Screen (LTC FS). A profile of the individual is developed based upon this information and that profile will be used to determine the projected cost of services and supports for that individual if he or she were enrolled in Family Care. Only services that are included in the IRIS Waiver are included in this calculation. The prospective participant will know this budget amount when deciding whether to participate in IRIS or another Long-term care Program.

IRIS Policy Manual, Sec. 5.3. With the assistance of an IRIS Consultant Agency (ICA), participants identify waiver allowable services that they need to meet their long-term care outcomes. The cost of those services must typically fall within the budget estimate. *Id.* at 5.3A. Participants may however submit a budget amendment to the Department of Health Services with the assistance of their ICA. A budget amendment is "...a request made by the IRIS participant to increase the participant's budget to pay for an ongoing need not met within the current budget. Typical supports, services or goods requested through the BA process include additional Supportive Home Care, Respite, Daily Living Skills, Supported Employment, and other such services needed by an IRIS participant on an ongoing basis." *Id.* at 5.7. When the Department of Health Services denies a BA request, the participant may appeal the budget amount using the Medicaid fair hearing process. *Id.*

IRIS participants are given the choice to hire an agency to provide IRIS-funded services. See, IRIS Policy Manual, Sec. 6.2. IRIS participants are responsible for negotiating "usual and customary" rates of pay with all providers. HCBS Waiver, pg. 238. The IRIS consultants must also ensure that the participant negotiate the "most cost effective rate with providers." *Id.* Further guiding principles is that IRIS participant's needs are meet responsibly and cost-effectively. IRIS Policy Manual, Sec. 1.1A and 1.1C. The IRIS program is also the funding of last resort. *Id.* at Sec. 5.6A.4.

In the present matter, petitioner is seeking a BA to fund a 4% rate increase sought by [REDACTED], her current day program provider.

The Department denied the request on grounds it is not cost-effective and necessary to support the petitioner's outcomes. It was also indicated that the rate being requested is not competitive compared to rates by other long-term care providers. The Department did not identify what a competitive rate would be or the rate charged by the other long-term care providers it reviewed. The Department did note that it had granted [REDACTED] a "substantial increase in July 2022 in addition to the 5% American Rescue Plan Act (ARPA) funds that were added to the provider rates in January 2022." See denial notice dated March 14, 2024.

The petitioner appeared at hearing by her parents. They expressed concern should the petitioner be required to change providers as the petitioner does not do well with change. Concern was also expressed over the possibility that other providers would not be able to provide the same level of services offered by [REDACTED].

Ultimately, I find that the record does not demonstrate that the rate increase is necessary and cost-effective to ensure the petitioner's long-term care outcomes are met. This is due to a lack of showing that the services the petitioner currently receives from [REDACTED] are in jeopardy if the rate increase is denied. No

representative from ██████ testified or submitted evidence further justifying the rate increase. The record contains a year-old letter from the provider addressed to all IRIS participants that indicates there would be a rate increase and a brief explanation in support. The petitioner did not receive notice from ██████ that she would be disenrolled from programming if the rate increase was denied. And notably, the petitioner's parents and the IRIS consultant agency were informed by ██████ that the petitioner will be allowed to remain in the program even if the rate increase is denied. The IRIS consultant agency also indicated that is the same information that ██████ relayed to its other clients who use that provider.

Based on the record before me, the petitioner's ability to receive day programming services from ██████ is not dependent on approval of the rate increase. The services she receives and long-term outcomes were not shown to be in jeopardy. The rate increase is therefore not necessary and, as a result, not cost-effective. Thus, I find the record supports the Department's denial of the BA request in this case.

### CONCLUSIONS OF LAW

The petitioner failed to establish that the Department incorrectly denied her BA request.

**THEREFORE, it is**

**ORDERED**

That the 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**

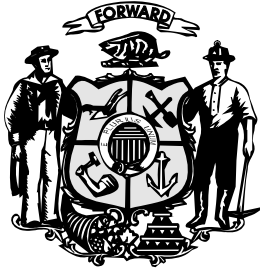
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 26th day of June, 2024



\s \_\_\_\_\_  
Jason M. Grace  
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 26, 2024.

Bureau of Long-Term Support