



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

██████████
██████████
██████████

DECISION
Case #: CWA - 212682

PRELIMINARY RECITALS

Pursuant to a petition filed on March 18, 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 24, 2024, by telephone.

The issue for determination is whether the IRIS program erred in its denial of petitioner's request for funding for ongoing expenses relating to her second service dog named █████.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

Petitioner's Representative:

██████████
██████████
██████████

Respondent:

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

By: R. Glamm
Bureau of Long-Term Support
PO Box 7851
Madison, WI 53707-7851

ADMINISTRATIVE LAW JUDGE:

John Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES #) is a resident of La Crosse County.
2. Petitioner is an IRIS enrollee.
3. In DHA case number CWA-175207, decided in August 2016, ALJ Schneider decided that training a puppy that petitioner obtained should be approved because that puppy would be trained to do things her existing Iris-funded service dog (████) had not been trained to do. As ALJ Schneider wrote that either dog could be trained but that it made sense to train the puppy (named █████).
4. In DHA case number CWA-180323, decided in June 2017, this ALJ decided that IRIS was correct in denying funding for training and expenses for a new dog named █████.
5. In DHA case number CWA-181999, decided in August 2017, ALJ Schneider decided that that agency was correct in its denial of funding for a leash for the second dog, █████.
6. She currently has two separate service dogs: █████ and █████. IRIS has funded expenses for █████ since 2016.
7. Petitioner sought funding for ongoing expenses related to her second service dog, █████.
8. The agency denied the request.

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.

The federal government has promulgated 42 C.F.R. §441.450 - .484 to provide general guidance for this program. Those regulations require that the Department's agent must assess the participant's needs and preferences (including health status) as a condition of IRIS participation. *Id.*, §441.466. The Department's agent must also develop a service plan based on the assessed needs. Further, "all of the State's applicable policies and procedures associated with service plan development must be carried out ..." *Id.* §441.468.

IRIS Program policy no. SC 16.1 provides guidance on coverage of customized goods or services under the program. Such goods or services are those that enhance the person's opportunities related to living arrangement, relationship, community inclusion, work, and functional medical status. The item must meet all four of the following criteria:

- a. It must be designed to meet the person's functional, vocational, medical, or social needs and also advance the desired outcomes in the individual service plan;
- b. It must be documented on the service plan;
- c. It cannot be prohibited by statutes or regulations;
- d. It cannot be available through another source or be experimental in nature.

In addition, the item must meet at least one of the following criteria:

- a. It will maintain or increase the person's safety in the home or community;
- b. It will decrease or prevent increased dependence on other Medicaid-funded services;
- c. It will maintain or increase the person's functioning related to his disability;
- d. It will maintain or increase the person's access to or presence in the community.

The agency must review questionable items that exceed the cost of average products necessary to meet an outcome. The agency must provide an item that is the most cost effective possible. See IRIS Program

Operations Infrequent Expense Policy at www.dhs.wisconsin.gov/bdds/IRIS/BudgRevw.pdf. See also 42 C.F.R. §440.180(b)(9).

Petitioner's request for IRIS to fund the expenses for a second service dog is without merit and has essentially been decided in prior appeals. The second service dog and related expenses are not cost-effective, appropriate, or necessary. Petitioner has brought up this, or related issues, before. In the first appeal ALJ Schneider found that petitioner's second dog, a new puppy, should be trained to provide for her needs. Critically, ALJ Schneider did not find that petitioner should perpetually have a second IRIS-funded dog which appears to be what the petitioner believes the decision found. A year later, this ALJ found that funding for another new dog, ■■■, was correctly denied because ■■■ was supposed to have been adequately trained. This ALJ clearly explained that IRIS had no responsibility for a second dog and that ALJ Schneider's decision allowing ■■■ to be trained did not approve that petitioner should have two funded dogs. Finally, a month or so later, ALJ Schneider rejected petitioner's argument and found that IRIS had no responsibility to fund anything for ■■■ and that ■■■ should have been trained to meet her needs.

Today, petitioner is again arguing that expenses for her second dog, ■■■, should be covered by IRIS. This issue, while a different request, is the same issue as previously decided. The denial for expenses for ■■■ are not appropriate or cost-effective as long as IRIS pays for ■■■. Petitioner is free to re-home ■■■ and it is likely that IRIS will fund expenses for ■■■.

CONCLUSIONS OF LAW

The agency did not err in its denial of petitioner's request for expenses for her second service dog, ■■■.

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, 5th 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

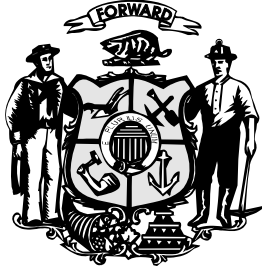
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 12th day of July, 2024



\s _____
John Tedesco
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 12, 2024.

Bureau of Long-Term Support

