



FH

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

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION AFTER REHEARING**  
Case #: CWA - 220073

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed on September 19, 2025, 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 January 28, 2026, by telephone.

An initial decision in this matter was issued on 12/5/25. In that case the petitioner prevailed and the matter was remanded to the agency. The agency sought rehearing based on the previous unavailability of certain evidence, namely the testimony of the IRIS consultant. The agency argued that the IRIS consultant was fearful of providing testimony due to threat made by petitioner and was unwilling to testify at the initial hearing. The consultant provided a sworn affidavit in support of the rehearing request and intended to offer testimony at a rehearing. The rehearing was granted and this decision follows.

The issue for determination is whether the respondent correctly acted to disenroll petitioner from the IRIS Program.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

**Petitioner:**

[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner's Representative:**

Attorney Matthew Hayes  
Legal Action of Wisconsin, Inc  
633 W Wisconsin Ave, Suite 2000  
Milwaukee, WI 53203

**Respondent:**

Department of Health Services  
201 E. Washington Ave.  
Madison, WI 53703

**Respondent's Representative:**

Attorney Anthony Jackson  
MWH Law Group LLP  
735 N Water St, Suite 610  
Milwaukee, WI 53202

**By:**

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 is a resident of Rock County.
2. The petitioner's IRIS consultant conducted an in-home quarterly visit on 8/11/25.
3. On 9/22/25 the respondent issued a notice to petitioner informing petitioner that petitioner would be disenrolled from the IRIS Program effective 10/7/25.
4. The respondent sent an e-mail on 11/3/25 which was two days prior to the hearing. The e-mail from the IRIS/TMG representative appearing at hearing stated "Please find an addendum to the Hearing Packet for CWA220073. This is the written testimony from the IC as he will not be attending the hearing:

*I am willingly providing a written testimony in lieu of appearing at the hearing on November 5, 2025. The current IC was introduced to the [REDACTED] as the new IC in November of 2024. IC was informed by the supervisor that there were some challenges to this partnership, as there have been multiple instances of verbal aggression, swearing, and hostility towards other ICs in the past. For the interest of the previous IC, and in an attempt to keep a consistent program experience moving forward, TMG made the decision to get a new IC partnered with both [REDACTED] and [REDACTED].*

*In November of 2024 the current IC and the previous IC met with the [REDACTED] and immediately there was tension and verbal discussions about how they will 'have it out' with the IC if they feel they need to and that they will swear and 'tell it like it is.' This created the feeling of a tense and hostile working environment; the pleasantness of a meeting was fully dictated by the actions of the participants moving forward.*

*The current IC worked closely with the participants for a one-time-expense project for a new deck, as well as advised on potential respite options for the daughter/paid hired worker (for a trip she was hoping to take in April of 2025 to see her son graduate). Both the one-time expense and the respite options did not work out in favor of the participant's plans and each time the current IC was met with swearing, raised voices, and verbal hostility towards the program in general. Despite being told that they weren't yelling at the IC, the entire situation, both in person and on phone calls, was unnerving and difficult.*

*On several occasions, via phone and in person contacts, the IC was told by the [REDACTED] that they didn't want to speak with him. During these contacts, the IC witnessed the [REDACTED] swearing about the IRIS program and broader officials in the program (the state in general) and was hung up on during phone calls.*

*During the August quarterly meeting, in which the second round of discussions were being conducted for the one-time expense ramp proposal, a revolver pistol was produced following angry statements and swearing. The [REDACTED] expressed anger towards the IC for the program*

*not delivering what the participant felt should be delivered. █████ stated he wished he could round up all the people in the state and drive them in a bus to show them how they are making people live. He shared that he was prepared to go into a nursing home to make the state pay for it and stated that the state was putting him in a nursing home. It was immediately after this statement that █████ stated that he had bought a new gun. █████'s daughter/paid caregiver, █████, walked down the hall. In an attempt to diffuse the situation, IC asked if █████ was a gun enthusiast and stood up to signal he was ready to leave. █████ came back with the gun. █████ handed the gun to █████ who held it in a manner that had the barrel pointed toward the IC. The IC moved slightly to the left to not be in the direct line of the barrel and then when the gun was brought back down to being pointed at the floor, the IC moved to the right and heard the trigger pulled. During all of this, the conversation continued, and █████ stated that they are gun enthusiasts. In trying to assess what other weapons might be in the home, IC asked if they had concealed carry. █████ said they all had concealed carry permits. After the revolver was put away, █████ stated that he had another one and produced what appeared to be a pistol as well. IC was told that it wasn't 'real,' that it was an airsoft style gun and that despite it not being real, at 4200 feet per second it would "hurt like hell." The IC did not want to cause the situation to escalate so we exchanged goodbyes and the IC left and reported to his supervisor.*

*During this IC's time with the participants, phone calls and visits have been tense and challenging; the IC was committed to doing what was needed to maintain solid program functionality, but each phone call and visit was met with anxiety, fear and trepidation because it was not known how the contact would transpire.*

*The IC understands my experiences to be similar to the experiences described by the previous ICs, only the most recent experience was further exacerbated with the production of 2 weapons during a heated discussion regarding the one-time expense funding project. The state's denial of the ramp OTE request has resulted in several very discomforting phone calls and in-person meetings.*

*The current IC reported this partnership experience to management, and management worked with DHS on the next steps that led to the disenrollment.*

5. Hearing was held on 11/5/25. The IRIS consultant did not testify.
6. Decision was issued on 12/5/25.
7. Respondent requested a rehearing. Respondent argued that testimony from the IRIS consultant was not available from the IRIS consultant at the initial hearing because he was fearful for his own safety due to threats from petitioner.
8. Hearing was held at which time the IRIS consultant testimony, as well as argument by counsel for both parties, was admitted to supplement the record made in the earlier hearing.

## DISCUSSION

The Include, Respect, I Self-Direct (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. IRIS is a fee-for-service, 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, and then develop a service plan based on the assessed needs. *Id.*, §441.466. The service plan may include personal care and homemaker services. *Id.*, §440.180(b). The program is designed to allow great flexibility in self-direction by petitioner and petitioner's representatives. The agency is much less involved in day to day operation compared to the Family Care Program.

The Department's IRIS policies, specifically Enrollment Policy D.2.a. allow the program to end a participant's enrollment Program requested disenrollments are involuntary and occur as the result of a participant's failure to meet programmatic requirements, failure to perform responsibilities of self direction, or as result of general program noncompliance.

The respondent has denied continued enrollment to petitioner. The notice issued to petitioner explains that the basis for disenrollment relates to an IRIS enrollment policy:

*In accordance with IRIS Enrollment policy D.2.a.viii [sic; actually D.2.a.ix] Program Requested Disenrollment, participants may be involuntarily disenrolled from the IRIS program when a participant refuses to perform responsibilities of self-direction or complete program requirements, as defined by participant education materials and program policies.*

Respondent supports its action based on an allegation that [REDACTED] inappropriately displayed a handgun in a threatening manner, and made threatening and intimidating statements, in the presence of the IRIS consultant during a home visit.

The IRIS agency argues that petitioner failed to comply with IRIS program requirements and responsibilities because his behavior and words relating to the firearm display were violative of *IRIS Participant Manual* Section 3.0. Specifically, the manual expressly provides that participants must "treat your workers, agency providers, self-directed personal care nurse, IRIS consultant, IRIS consultant agency, and fiscal employer agent with respect, including having a safe space at your home for meetings."

First, I agree that a violation of Section 3.0 allows for disenrollment. Petitioner argues that it should not because such allowance could lead to absurd results in the case of some of the provisions in Section 3.0 that carry less gravity. Petitioner suggests that "you could be disenrolled if you fail to tell your IRIS consultant that your address and/or your phone number have changed." However, I note that disenrollment is not *required* in the case of such violations. Instead, the agency is simply granted the discretion to do so. The proper exercise of that discretion would be reviewable at a fair hearing. Furthermore, in a simple case of failure to change a phone number with the agency, the correction of that error is simple and I suspect that a disenrollment for such a reason would likely be found to be an improper exercise in most cases. That said, if a change of phone number or address creates larger issues with the provision of care or maintaining quality assurance in a person's case, I do not disagree that disenrollment could possibly be appropriate and that the agency should, and does, have that authority.

In this case, if the behavior of petitioner is true, there is no simple solution as in the case of adding a phone number to a member profile. The ready presence of handguns in the home, and the petitioner's connection with firearms to his dissatisfaction with IRIS case management has already been established. The agency does not merely need to change a phone number. The agency, and its staff, would be continually justified to be fearful when visiting or personally interacting with petitioner as long as they manage his case.

Based on the testimony of the IRIS consultant, as well as the affidavit submitted as part of the rehearing request, and the written statement offered at the first hearing which the consultant essentially adopted at the rehearing, the petitioner displayed a handgun in a threatening manner at the visit. He likely did so due to a continuing dispute relating to a denial of funding for a home modification. The consultant observed petitioner pointing the gun in the consultant's direction, pulling the trigger (dry-firing), and making threatening and angry statements. The consultant testified that he did not invite this display of the weapon and did not welcome it. He testified that it was inappropriate and that he felt threatened and attempted to close the meeting as quickly as possible thereafter.

As for the conduct alleged, I do find the testimony by the IRIS consultant to be entirely credible. His testimony at hearing was appropriately detailed, and firmly stated, without any indication of bias or other motive for fabrication. He seemed entirely professional. I am heavily swayed by the lack of any apparent reason that this IRIS consultant would create this fiction about an IRIS member and carry the fiction so far. The consultant reported this to his superiors immediately. He reported it to local law enforcement resulting in a police report offered as evidence. And, he ultimately testified credibly. Petitioner lacked any possible explanation for why this would have occurred except to suggest that it was instigated and pushed along by agency management or supervisors. I struggle to believe that this elaborate fiction was created by the consultant or IRIS agency management simply as a means to end a relationship with a member.

The IRIS consultant's description of events is completely at odds with the testimony of [REDACTED]. She testified at the initial hearing that the handgun never left her hand, that petitioner never held it, that petitioner never pulled the trigger or pointed it in the direction of the consultant, and that the handgun display had nothing to do with any conflict between petitioner and the consultant. But, [REDACTED] has obvious motive for keeping her father enrolled in IRIS so that he can continue to receive his present services. Furthermore, [REDACTED] is a caregiver paid by funding through the IRIS program. If disenrolled, her father will need to find alternative cares through a different program and [REDACTED] may lose some income.

At the initial hearing, [REDACTED] testified that petitioner merely wished to show the IRIS consultant the gun because he had just gotten it and that the consultant had been in the military and was also interested in firearms. But, this was a home visit by a state government funded healthcare agent. I find it challenging to believe that a person would believe that that is the time to "show-off" the new pistol. Additionally, the consultant testified that he, in fact, does not have an interest in firearms and that the display was highly inappropriate, and that the petitioner and he had never bonded over an interest in firearms, making the display inappropriate and unwelcome.

It is apparent that one person is lying. Based on the hearing testimony and record, I believe that to be [REDACTED].

Given the behavior of petitioner on this occasion, as well as the ongoing concern for the existence of a safe setting for meetings/visits in the future, I believe the agency is within its authority to disenroll petitioner from IRIS as the open display and handling of the handgun in a threatening manner was both treating the consultant with disrespect in that the behavior was threatening, and the setting was unsafe due to the presence of the firearm coupled with the petitioner's words of a threatening nature. It may be that another program offers a more appropriate package of services with fewer concerns for staff safety.

**CONCLUSIONS OF LAW**

The IRIS agency did not err in its disenrollment of petitioner from IRIS due to the petitioner's erratic and threatening behavior with a handgun during a home visit.

**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.

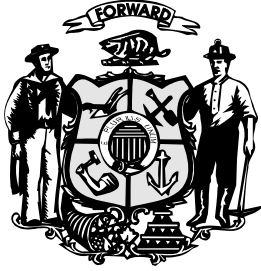
**APPEAL TO COURT**

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, 201 E. Washington Ave., **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 2nd day of March, 2026

\s \_\_\_\_\_  
John Tedesco  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
5<sup>th</sup> Floor North  
4822 Madison Yards Way  
Madison, WI 53705-5400

Telephone: (608) 266-7709  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 2, 2026.

Bureau of Long-Term Support  
Attorney Matthew Hayes  
Attorney Anthony Jackson  
Attorney Emery Harlan