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

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In the Matter of

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**DECISION**  
Case #: CWA - 215860

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on November 9, 2024, under Wis. Admin. Code § HA 3.03, to review a decision by TMG, in its capacity as an IRIS Consultant Agency, regarding IRIS, a Medical Assistance (MA) long term care waiver program, a hearing was held on December 18, 2024, by telephone.

The issue for determination is whether TMG properly reduced Petitioner's IRIS authorization for supportive home care from 27 hours per week to 20.5 hours per week.

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: Pamela Schreiber  
Bureau of Long-Term Support  
PO Box 7851  
Madison, WI 53707-7851

**ADMINISTRATIVE LAW JUDGE:**

Teresa A. Perez  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a 33-year old resident of Portage County who is enrolled in the IRIS Program. His IRIS consultant agency is TMG.
2. Petitioner resides with his mother.
3. Petitioner has medical diagnoses including but not limited to autism, narcolepsy, obesity, anxiety, and depression.
4. Petitioner requires cues / reminders to shower, to clean himself thoroughly, and to wear clean clothing.
5. Petitioner is independent with eating, mobility in his home, toileting, and transferring.
6. Petitioner requires assistance with meal preparation, medication administration and medication management, money management, and laundry and chores.
7. Petitioner is employed full-time in a direct-hire position at a print shop; he requires assistance when he encounters a problem. Petitioner is able to drive a car.
8. During the plan year that began November 1, 2023, Petitioner was assigned an IRIS annual budget of \$20,710.32 which was used to fund 27 hours per week in supportive home care at \$12.08 per hour and 6 hours per week in respite care at \$9.72 per hour.
9. TMG completed Petitioner's annual long term care functional screen ("LTCFS") on September 13, 2024. The 2024 LTCFS did not show any significant changes in Petitioner's diagnoses, prognoses, or support needs; however, his annual budget for the plan year that began November 1, 2024 was reduced to \$16,999.36.
10. Following completion of Petitioner's September 2024 LTCFS, Petitioner's mother informed Petitioner's IRIS Consultant that she would like to file a budget amendment to request additional funding so that Petitioner could avoid any reduction of services.
11. At the direction of TMG, Petitioner's mother completed a Caregiver Daily Task Schedule showing the tasks that she completed to assist Petitioner on a single day. The completed schedule listed the following morning tasks: verbally prompting Petitioner to get up, making breakfast, placing Petitioner's medications in a cup, prompting him to take medications, handing him medications, helping him find his keys, phone, and hat, and prompting him to take his lunch with him to work and to drive carefully. The completed schedule also included the following afternoon and evening tasks included: making supper, prompting Petitioner to shower, to use soap and shampoo, to completely dry off, to place dirty clothes in laundry, serving supper, placing medications in a cup, prompting Petitioner to take pills, handing pills to Petitioner, prompting Petitioner to pick out his clothes for the following day, checking to see if he chose appropriate clothes, preparing Petitioner's cold lunch for the next day, discussing the next day's schedule to prepare Petitioner, prompting Petitioner to go to bed, and prompting Petitioner to go back to bed and to get out of the refrigerator.

12. After reviewing the completed Caregiver Daily Task Schedule and talking to Petitioner and his mother, TMG concluded that Petitioner required only 20.5 hours of supportive home care to meet his needs and that a budget amendment was therefore not needed.
13. By written notice dated November 6, 2024, TMG informed Petitioner that his supportive home care would be reduced by 6.5 hours per week (i.e., from 27 hours to 20.5 hours) effective December 1, 2024 due to the budget reduction caused by his most recent Long-Term Care Functional Screen and because TMG determined that he did not need the additional hours to support his outcomes. See Resp Ex. B2-B3.
14. On November 11, 2024, the Division of Hearings and Appeals received an appeal from Petitioner.

### DISCUSSION

The Include, Respect, I Self-Direct (IRIS) program is a Medical Assistance 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 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 ("Waiver")*. 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 <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. See Waiver, Appendix C-4, p. 175. That budget is an estimate of the participant's expected needs and is based on information documented in the participant's Long-Term Care Functional Screen (LTC FS). *IRIS Policy Manual*, Sec. 5.3. The method that the Department uses to calculate the estimate of a participant's expected needs is described in the waiver application as follows:

An IRIS participant's budget estimate relies on data from Wisconsin's Long-Term Care Functional Screen (LTCFS). Developed by the [Department], the LTCFS provides an automated and objective way to identify the long-term care needs of elders and people with physical or intellectual/developmental disabilities and determine the degree of assistance required to address those needs. Specifically, the LTCFS looks at a person's ability to complete both Activities of Daily Living (ADLs) and Instrumental Activities of Daily Living (IADLs). It also looks at a person's cognition, behavior(s), diagnoses, medically-oriented tasks and employment; as well as indicators for mental health issues, substance use issues and other conditions that put a person at risk of institutionalization in a nursing home or Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF-IID). The screen was developed with input from stakeholders, consumers and clinical practitioners. Several studies to test its validity and reliability were also completed.

**The [Department] contracted actuaries to develop the regression model that predicts the total cost of an IRIS participant's needed long-term supports and services as determined by the participant's LTCFS results. The model was developed using past, corresponding IRIS services and supports expenditure and LTCFS data. After a participant goes through the LTCFS, that individual's information is inputted into the model and results in the participant's individual budget estimate. This budget estimate is what is used to allocate supports, services, and goods in the participant's [Individual Support and Services Plan] during the self-directed planning process. This is applied consistently to each IRIS participant . . .**

*Waiver*, Appendix E-2b.ii., pp. 204 - 205.

After a participant's budget is calculated, they identify IRIS allowable services that they need to meet their long term care outcomes. *IRIS Policy Manual* at 5.3A and 5.4 and *Waiver*, Appendix C-4, p. 175. The cost of those services must typically fall within the assigned budget. *Id.* Participants may however submit a budget amendment request to the Department of Health Services with the assistance of their ICA. *IRIS Policy Manual* at 5.7. A budget amendment request 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." *Id.*

In this case, TMG explained that the model (i.e., formula) the Department uses to calculate budget estimates was updated in 2023 using more recent data. And, that updated formula is what led to the reduction of Petitioner's budget estimate following his September 2024 LTCFS despite that LTCFS not showing any significant changes. TMG further explained that because Petitioner's budget was reduced, he must select services and supports that fit within that budget unless there is evidence that he needs services and supports that cost more than the budget can accommodate.

Petitioner's mother argued that because Petitioner's needs have not changed, his budget and supportive home care hours should not be reduced. Although the argument that Petitioner's budget should remain unchanged since his circumstances have remained unchanged is reasonable, the federal government authorized the State of Wisconsin's use of the long term care functional screen in combination with actuarially determined regression models to calculate budget amounts when it approved the State's application to operate the IRIS program. And, I do not have the authority to declare that methodology to be erroneous or invalid.

As stated above, the Department has established a budget amendment request process to address situations in which an individual's needs cannot be met by the assigned budget. TMG's representative testified that Petitioner's mother was asked to complete a daily log of caregiver tasks and that the log she submitted did not demonstrate that Petitioner requires more than the 20.5 hours of supportive home care per week that his reduced budget can accommodate. TMG's representative argued that any time indicated in the log as needed for meal preparation was not allowable since Petitioner and his mother reside in the same household and meal preparation is something that she must do anyway. In addition, she observed that most of the tasks listed on the log were supervisory (i.e., prompts to shower, go to bed, take medications), that Petitioner is able to be left alone overnight, and that he works in a full-time job without a job coach.

Petitioner's mother did not dispute TMG's assertion that the daily log she completed did not reflect a need for more than 20.5 supportive home care hours; however, she argued that because she completed that log for only one day, it does not provide a thorough representation of Petitioner's needs which vary from week to week. She testified that Petitioner is unable to live on his own, that he has tried to do so and

that his anxiety significantly increased, that he sees multiple doctors each month and that she has to accompany him, and that getting him to take his medications is very difficult.

Petitioner's mother's testimony, although sincere and credible, was not sufficiently detailed to rebut the agency's case that his needs can be met with the 20.5 hours that have been authorized. And, she did not offer any additional daily logs or other documentation to demonstrate that he requires more than the hours authorized. Based on the evidence that was presented, I find TMG's decision to reduce Petitioner's supportive home care hours by 6.5 hours per week to be appropriate.

I note that since Petitioner's mother believes that she did not provide TMG with a thorough picture of Petitioner's supportive home care needs on the single daily task log she submitted, she may consider keeping a more thorough, detailed log over a longer period of time that includes the number of medical appointments she accompanies him to each month and the amount of time required. She may submit that to TMG for its consideration at any time in the future. In addition, Petitioner, like all IRIS participants, may request a budget amendment whenever he experiences a change in condition that results in an increase in care needs that the current budget cannot meet.

### CONCLUSIONS OF LAW

TMG properly reduced Petitioner's IRIS authorization for supportive home care from 27 hours per week to 20.5 hours per week.

**THEREFORE, it is**

**ORDERED**

That 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.

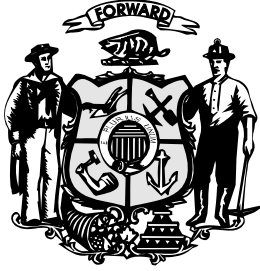
### **APPEAL TO COURT**

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 5th day of February, 2025

\s \_\_\_\_\_  
Teresa A. Perez  
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 February 5, 2025.

Bureau of Long-Term Support