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[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: BCS - 207395

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on January 12, 2023, under Wis. Stat. § 49.45(5)(a), to review a decision by the Dane County Department of Human Services regarding Medical Assistance (MA), a hearing was held on February 22, 2023, by telephone. The hearing record was held open for two days to allow the agency to submit exhibits that were provided to the petitioner prior to the hearing and for Petitioner to submit documentation of his educational aid. Both parties submitted additional documents which have been received as exhibits.

The issue for determination is whether the agency properly denied Petitioner's application for BadgerCare Plus.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

**Petitioner:**

[REDACTED]  
[REDACTED]  
[REDACTED]

**Respondent:**

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

By: [REDACTED]  
Dane County Department of Human Services  
1819 Aberg Avenue  
Suite D  
Madison, WI 53704-6343

**ADMINISTRATIVE LAW JUDGE:**

Teresa A. Perez  
Division of Hearings and Appeals

## FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a 21-year old resident of Dane County who is enrolled in college.
2. Petitioner filed an application for BadgerCare Plus on November 26, 2022.
3. On his application, Petitioner reported that he received unearned income in the form of educational aid.
4. On November 30, 2022, the agency issued a written request informing Petitioner that he must provide proof of “**TUITION**: Amount of student loan or grant funds and how they are spent on education”. The request provided the following examples of proof: “Grant Letter; Award Letter; or Expense receipt” and identified a due date of December 26, 2022.
5. On or prior to December 9, 2022, Petitioner submitted a document entitled “2021-2022 Financial Aid Offer” which included estimated costs of attendance including tuition and fees; housing and meals; books and supplies; transportation; and personal expenses for the 2021-2022 school year and Petitioner’s “estimated financial aid offer”.
6. On December 28, 2022, the agency issued a written denial notice to Petitioner based on a finding that he failed to provide requested verification.

## DISCUSSION

BadgerCare Plus is a Wisconsin variant of the MA program available to individuals who do not have minor children and who are neither elderly nor disabled. Wis. Stat. § 49.45(23); *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1). An individual must meet certain financial eligibility requirements to receive BCP including, of particular relevance to this case, an income test. A childless applicant may not have adjusted gross income in excess of 100% of the federal poverty level (FPL). In 2022, the monthly income limit for a one-member household was \$1,132.50 per month. As of February 2023, that amount increased to \$1,215. Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1 and § 50.1.

An applicant for Medical Assistance / BCP must verify income when applying for benefits. Wis. Admin. Code, § DHS 102.03(3)(a). If the applicant “is able to produce required verifications but refuses or fails to do so”, the application will be denied. Wis. Admin. Code, § DHS 102.03(1). Program policy requires the agency to “[a]dvice the applicant of the **specific verification required**.” [Emphasis added]. *BCPEH*, §9.2. In the event an applicant fails to produce verification within specified timeframes after receiving an “**adequate notice of the verification required**”, the agency may deny the application. [Emphasis added]. *BCPEH*, §9.11.4; See also, Wis. Admin. Code § 102.03(1).

In this case, the agency denied Petitioner’s application because it concluded he had not provided suitable verification of his educational expenses. The agency representative testified that “per policy, [the] county does not accept estimated award letters” since the figures in estimated award letters are contingent upon available of funding and whether the individual accepts the award. Instead, the agency requires the “actual award letter.” Testimony of Agency Representative Patterson. I find that the agency’s denial of Petitioner’s application was in error for the reasons set forth below.

Some types of financial aid for students are countable for purposes of determining BCP eligibility. The following policy provision sets forth what types of aid are countable and what costs can be deducted:

“Grants, scholarships, fellowships, and any additional financial assistance provided by public or private organizations **that exceed the cost of tuition, books, and mandatory fees** are counted as unearned income and should be prorated over the period of time they are intended to cover.” [Emphasis added]. *BCPEH* §16.5, Para. 16. Work study income is also countable but as earned income. *Id.*

Thus, in order to properly calculate what amount of an applicant’s educational aid, if any, is countable income, the agency must determine: (1) the total amount of aid, and (2) the total amount of an applicant’s tuition, book expenses, and mandatory fees. Because all types of income must be verified, the agency’s decision to send a request for proof was appropriate. *BCPEH* §9.9.6. However, the instructions included in the request for proof are vaguer and more confusing than the policy itself. See Finding of Fact No. 4. Nothing in the verification request advised Petitioner that an “actual award letter” from the 2022-2023 school year was required. And, nothing in the award letter advised Petitioner that he must provide evidence of his personal expenses for books, fees, and tuition. The verification request was thus inadequate. I note that the language included in the notice is a template and was not specifically chosen by this county; however, a county can insert clarifying language into this type of notice.

Petitioner reasonably believed that the estimated award letter that he sent to the agency, which included a tuition and fee schedule, average book expenses, and the grants that he was offered in 2021-2022, would satisfy the agency’s request as it was worded. And, it is undisputed that he provided that document well before the deadline. The agency representative testified that calls were placed to Petitioner after the agency reviewed his verification, presumably to clarify the verification request, but that no messages were left due to privacy concerns. However, the agency did not send Petitioner any follow-up written correspondence which would have been an appropriate and reasonable next step given Petitioner’s obvious efforts to comply with the verification request.

Because the verification request was inadequate and because Petitioner endeavored to comply with that request by the deadline, I find that the agency’s denial was not appropriate. I am therefore remanding this matter to the agency to review the documentation that Petitioner submitted following the hearing (referenced in the Preliminary Recitals); to contact Petitioner if it needs additional information or verification regarding his tuition, book expenses, and mandatory fees; and to calculate his countable monthly income. The agency will then issue a new *About Your Benefits* notice advising Petitioner whether his BCP has been approved or denied, which will include a description of his appeal rights.

Finally, I note that if Petitioner’s monthly countable income exceeds the income limit, the agency must also consider whether his annual countable income exceeds the annual income limit, pursuant to the gap-filling policies set forth in *BCPEH* §16.9.

### CONCLUSIONS OF LAW

- The agency did not provide an “adequate notice of the verification required” and its decision to deny the petitioner’s application was therefore in error, pursuant to § 9.11.4 of the *BadgerCare Plus Eligibility Handbook*.

**THEREFORE, it is**

**ORDERED**

That the matter is remanded to the agency to: (1) review the additional documentation Petitioner submitted (and that the administrative law judge forwarded to the agency’s representative on February 22, 2023) regarding his educational aid for the 2022-2023 academic year; (2) identify any additional information or verification of tuition, book expenses, and/or mandatory fees that it needs Petitioner to provide; (3) calculate his countable income; and (4) notify Petitioner of its determination. These steps must be taken within ten days from the date of this decision.

## 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).

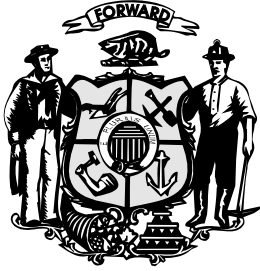
The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 28th day of March, 2023

  
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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 March 28, 2023.

Dane Cty. Dept. of Human Services  
Division of Health Care Access and Accountability