



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: BCS - 207099

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on December 7, 2022, under Wis. Stat. § 49.45(5)(a), to review a decision by the Wood County Human Services - WI Rapids regarding Medical Assistance (MA), a hearing was held on December 28, 2022, by telephone.

The issue for determination is whether the agency determined that petitioner was ineligible for MA/BadgerCare Plus benefits because her household income exceeded the program limit.

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]  
Wood County Human Services - WI Rapids  
111 W Jackson St  
Wisconsin Rapids, WI 54495

**ADMINISTRATIVE LAW JUDGE:**

Beth Whitaker  
Division of Hearings and Appeals

## FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Forest County.
2. In November 2021, petitioner and her husband [REDACTED] became self-employed, operating the business [REDACTED].
3. On October 28, 2022, petitioner applied for MA.
4. On October 1, 2022, the agency issued to petitioner a Notice of Proof Needed, instructing her to provide proof of household wages and self-employment income by November 28, 2022.
5. On October 31, 2022, the agency issued to petitioner a summary of information she provided, in her MA application and instructed her to correct any incorrect information By November 9 2022.
6. On November 2, 2022, the agency issued to petitioner a summary of information she provided, in her MA application and instructed her to correct any incorrect information By November 11 2022.
7. On November 2, 2022, the agency issued to petitioner a Notice of Proof Needed, instructing her to provide proof of monthly income and expenses for the business [REDACTED] and the number of hours worked for the business by petitioner and [REDACTED], by November 28, 2022.
8. On November 23, 2022, the agency issued to petitioner a Notice of Proof Needed, instructing her to provide proof of monthly income and expenses for the business [REDACTED] and the number of hours worked for the business by petitioner and [REDACTED], by November 28, 2022.
9. On November 23, 2022, the agency received a completed Self Employment Income Report Form, federal and Wisconsin income tax returns from petitioner.
10. On November 28, 2022, the agency issued to petitioner a notice that her application for MA was pending and that information was needed from her to complete processing, namely monthly income and expenses for [REDACTED], due on November 28, 2022.
11. On November 29, 2022 the agency issued to petitioner a summary of information she provided, in her MA application and instructed her to correct any incorrect information By December 8 2022. Income reported included \$22,883.02 SE income and \$17,069.48 per month for [REDACTED] and 22883.02 income and 17069.39 expenses for [REDACTED].
12. On November 29, 2022, the agency issued to petitioner an About Your Benefits notice, informing her that her application for health care benefits was denied because the income counted was above the program limit.

## DISCUSSION

BadgerCare Plus (BCP) is a state and federal program that provides health coverage for low-income Wisconsin residents. To be eligible for BCP, a person must meet certain non-financial and financial requirements. The income limit for childless adults is 100% of the federal poverty level (FPL). BC+, § 16.1. All taxable gross income is counted. Id. For November 2022, 100% of the FPL for a HH of 3 was \$1919.17/month, § 50.1. If a household's annual income is below 100% of the annual FPL, the household may be eligible for coverage. The annual FPL limit for November 2022 was \$12,760. Id.

In her application, petitioner reported \$750 per month in income from the self-employment business for herself and her husband. This is the amount they designated as wages. The self-employment income verification form she submitted showed additional income as well as expenses in addition to the wages paid to the owners. The "self-employment income" budgeted by the agency is the amount remaining after all expenses, including salaries, are deducted. Self-employment income is not available through data exchanges and must be verified. BCP Eligibility Handbook 16.4.4. The agency did so. It used petitioner's

self-employment income and expenses verified using IRS Tax forms. This method of verification is correct. BCP Eligibility Handbook 16.4.3.2.2. The agency considered the income information since the business started to determine at a monthly average.

It budgeted self-employment income consistent with the BCP Eligibility Handbook. Expenses for principal payment on loans for purchase of income-producing real estate, capital assets, capital equipment and durable goods were disallowed expenses. BCP Eligibility Handbook 16.4.3.4.2. The agency counted self-employment income of \$4,813.54/month for [REDACTED] and \$5,813.63 for [REDACTED]. Total counted income for the household was \$14,722.09. The counted income limit for petitioner and [REDACTED] was \$1,919.17. The counted income limit for [REDACTED] was \$5,872.66. The household income exceeded the limit for program eligibility.

The petitioner did not assert any error other than how self-employment income was counted. She had multiple opportunities to submit all income information she wanted to and to correct anything that was wrong. She did not assert any error in the income information she provided to the agency. I find no error in the agency's determination or budgeting of petitioner's household's self-employment income or any other error in its eligibility determination. I find that the agency correctly determined that petitioner was ineligible for BCP because her household's income exceeded the program limit.

Petitioner argued that the income she reported for the business is not actually available to the household and that the tax returns and SEIRF give a misleading impression of the self-employment business income. I do not have the authority to bypass the law that has set forth the income limit or methods of determining gross income. Even if it seems unfair to petitioner, I cannot deviate from the income requirements established under the law. See, *Wisconsin Socialist Workers 1976 Campaign Committee v. McCann*, 433 F.Supp. 540, 545 (E.D. Wis.1977). Petitioner may reapply for BCP if her situation changes.

### CONCLUSIONS OF LAW

The agency correctly counted petitioner's self-employment income and correctly determined that petitioner was ineligible for BCP because her income exceeded the program limit.

**THEREFORE, it is**

**ORDERED**

That the petition for review 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

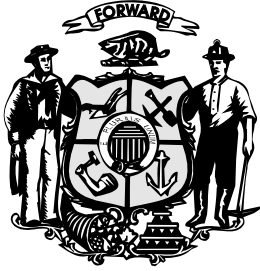
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 20th day of February, 2023

\s  \_\_\_\_\_

Beth Whitaker  
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 20, 2023.

Wood County Human Services - WI Rapids  
Division of Health Care Access and Accountability