



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: BCS - 207530

PRELIMINARY RECITALS

Pursuant to a petition filed on January 20, 2023, under Wis. Stat. § 49.45(5)(a), to review a decision by the Barron County Department of Human Services regarding Medical Assistance (MA), a hearing was held on February 28, 2023, by telephone.

The issue for determination is whether petitioner is ineligible for Wisconsin MA benefits for failing to cooperate with child support.

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:

Barron County Department of Human Services
Courthouse Room 338
335 E Monroe Ave
Barron, WI 54812

ADMINISTRATIVE LAW JUDGE:

Jason M. Grace
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is an unmarried resident of Washburn County. She receives federal SSI benefits. As a result of her SSI status, she automatically receives MA benefits from Wisconsin.
2. On or about November 24, 2022, the petitioner gave birth to a child. The child receives BadgerCare Plus (BCP) benefits.
3. At some undisclosed point in time, the petitioner was alleged to have refused to cooperate with the Child Support Agency in identifying the father of her child.
4. On or about December 12, 2022, the petitioner filed a request that she be found to have good cause not to cooperate with the Child Support Agency.
5. By notice dated December 22, 2022, the respondent denied petitioner's good cause claim.
6. On or about January 20, 2023, petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

The record does not disclose any pending application filed by petitioner for BCP, W-2, or Child Care Assistance. She does, however, currently receive SSI-MA benefits. However, the record does not indicate that any negative action has been issued seeking to impact her MA benefits. At issue here is whether petitioner faces the loss of her MA benefits for failing to cooperate with child support. While the record is scant on details pertaining to the lack of cooperation claim, it appears it based on an allegation petitioner refused to identify the father of her child. The petitioner did not dispute the lack of cooperation claim at hearing. As such, I will assume for the purposes of this decision that the refusal to cooperate element has been met.

The next step is to determine if petitioner falls within the group of individuals who are MA ineligible for refusing to cooperate with child support. To that end, I turn to Wisconsin law, which provides the following:

49.463 Ineligibility for noncompliance with child support determinations and obligations.

...

(3) ELIGIBILITY DENIAL; PATERNITY

...

(b) An *able-bodied adult* is ineligible for the Medical Assistance program under this subchapter in a month in which any of the following is true:

1. The able-bodied adult satisfies all of the following:

- a. The able-bodied adult is a custodial parent of or lives with and exercises parental control over a child who is under the age of 18 and who has an absent parent.**

- b. The able-bodied adult refuses to cooperate fully, in good faith, with applicable efforts directed at establishing the paternity of the child.
 - c. The able-bodied adult does not have good cause for refusing to cooperate, as determined by the department in accordance with [42 USC 1396k](#) and any federal regulations promulgated under [42 USC 1396k](#).
2. The able-bodied adult is one of the following and refuses to cooperate fully, in good faith, with efforts directed at establishing the paternity of the child:
- a. Alleged to be the father under s. [767.80](#) of a child under the age of 18. [49.463\(3\)\(b\)2.b.](#)
 - b. A noncustodial parent of a child under the age of 18 for whom paternity has not been established.

Wis. Stats§ 49.463 (*emphasis added*).

By the very terms of the statute, MA ineligibility applies only to an “able-bodied adult” who without good cause fails to cooperate with child support. Id. An “able-bodied adult” is defined as “... an adult who is not elderly, as defined in s. [49.468 \(1\) \(a\) 2.](#), or disabled, as defined in s. [49.471 \(1\) \(cm\)](#), who is not pregnant, and who is able-bodied, as defined by the department.” sec. 49.463(1)(a). As set forth in sec. 49.471(1)(cm), disabled is defined as “...referring to an adult, meeting the disability standard for eligibility for federal supplemental security income under 42 USC 1382c(a)(3).”

In this case, petitioner meets the definition of disabled set forth in sec. 49.71(1)(cm) as she receives federal SSI benefits. Her eligibility for those benefits automatically makes her eligible for MA in Wisconsin. She does not fall within the definition of “able-bodied adult” in sec 49.462(2)(b), and, as a result, does not face losing her MA benefits for failing to cooperate with child support. As such, there is no need to address the next step in the process, which is whether petitioner has good cause for her refusal to cooperate with child support.

This administrative hearing is solely to address whether petitioner is ineligible for Wisconsin MA for failing to cooperate with child support. It does not address child custody rights. It appears the petitioner is confused about that fact. It is my understanding there is a pending paternity action filed by the father of petitioner’s child. I have no authority to address that action.

I would note that the agency representatives indicated at the hearing that as a practical matter they do not have the ability to impact petitioner’s MA benefits in CARES. This was because petitioner is automatically eligible for MA due to receiving SSI benefits. It is my understanding that the agency has taken no steps to negatively impact petitioner’s MA benefits, and no negative notice has been issued pertaining to her MA benefits. As a result, the appeal will be dismissed.

CONCLUSIONS OF LAW

1. The petitioner is not ineligible for Wisconsin MA for failing to cooperate with child support as she does not fall within the target group set forth in Wis. Stats. § 49.463.
2. The respondent did not issue a negative notice seeking to impact petitioner’s MA benefits.

THEREFORE, it is

ORDERED

That the 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.

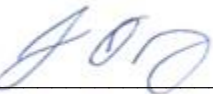
The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

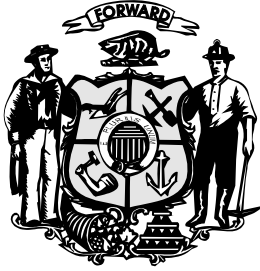
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 6th day of April, 2023

\s 

Jason M. Grace
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

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

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on April 6, 2023.

Barron County Department of Human Services
Division of Health Care Access and Accountability

