



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: BCS - 215161

PRELIMINARY RECITALS

Pursuant to a petition filed on September 23, 2024, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services regarding Medical Assistance (MA), a hearing was held on December 4, 2024, by telephone.

The issue for determination is whether Respondent correctly terminated Petitioner's MA benefits for failure to provide verification of employment and income.

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: Michelle Olusegun
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Wendy I. Smith
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County and a recipient of MA benefits in the BadgerCare Plus (BCP) program.
2. On or about August 26, 2024, Petitioner submitted a Six-Month Report Form (SMRF) as required to continue to receive MA benefits. Petitioner’s SMRF reported income from self-employment and Veterans Affairs benefits. The SMRF listed her only self-employment business as [REDACTED] with an average monthly income of \$7,682.67 and average monthly expenses of \$11,687.33.
3. Through data exchange reporting, Respondent identified additional businesses that are owned or operated by Petitioner that were not reported on her SMRF.
4. In a notice dated August 28, 2024, Respondent requested verification of all domestic and international businesses owned by Petitioner, whether active or delinquent. The agency specifically requested proof documents of income and expenses, as well as the average number of hours worked per month for each of the following businesses it identified as operated by Petitioner:

[REDACTED]
[REDACTED] ([REDACTED])
[REDACTED] ([REDACTED])
[REDACTED] ([REDACTED])
[REDACTED] ([REDACTED])
[REDACTED]

The notice also requested Petitioner’s full 2023 tax returns, including all pages, signatures, and submission confirmation. The stated deadline for producing these documents was September 16, 2024. Petitioner was advised that failure to supply the requested documents could result in her benefits being denied, decreased, or ended.

5. Earlier in the year, on or about April 26, 2024, Petitioner supplied her personal, unsigned 2023 tax return to Respondent which included Schedule E for supplemental income and loss. Schedule E, Part I includes reported information for the following rental properties:

[REDACTED]. Milwaukee WI 53202
[REDACTED] Milwaukee WI 53218
[REDACTED] Milwaukee WI 53218
[REDACTED]. Milwaukee WI 53216

[REDACTED] ([REDACTED]), which was identified as associated with Petitioner, is not listed in her Schedule E.

Schedule E, Part II includes reported information for income or loss from partnerships and S corporations. Petitioner’s schedule includes information for [REDACTED] and [REDACTED].

6. Also earlier in the year, on or about April 29, 2024, Petitioner supplied a completed Self-Employment Income Report (SEIR) form with combined information for “[REDACTED]” and

what she claimed were all of her rental properties. Each rental property was not individually listed in this form.

7. On September 16, 2024, in response to the request for proof documents, Petitioner submitted another completed SEIR with combined information for "[REDACTED]" and what she claimed were all of her rental properties. Income for "all rental property" was listed in the "Other income – specify" section of the form.
8. In a notice dated September 19, 2024, Petitioner was advised that her MA benefits would end on November 1, 2024, because the agency did not receive the requested proof documents for Petitioner's businesses.
9. Petitioner now appeals to the Division of Hearings and Appeals.

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 financial and non-financial requirements, including verification of income for self-employment. Wis. Stat. § 49.471(4)-(7); *see also BadgerCare Plus Handbook (BCP Handbook) § 9.9.6.*

To assess an applicant's eligibility, the agency is obligated to verify certain information reported by the applicant. *See BCP Handbook § 9.1.* The agency must establish the accuracy of reported information for "mandatory verification items," such as an applicant's income. *Id.* at § 9.9.6. The agency must also establish the accuracy of "questionable items," which refers to information that is inconsistent with the applicant's reporting or is otherwise unclear or vague. *Id.* at § 9.10. The agency may deny eligibility if it does not receive the required verification on the 20th day after requesting verification, or at the end of the renewal month, whichever is later. *Id.* at § 9.3.

The issue in dispute in this matter is the sufficiency of Petitioner's supplied documentation of her income from self-employment and rental properties. Based on the evidence in the record, Petitioner supplied a portion of her 2023 personal income tax return to the agency in April 2024, including Schedule E for rental property income. Respondent asserts that it requires a complete tax return with all pages, plus verification of submission and signatures. The document Petitioner claims to have sent to the agency in April that was produced for this appeal is unsigned and lacks a confirmation of filing with the IRS. She also completed a SEIR form in April 2024 where she reported her combined income from [REDACTED] and all of her rental properties in aggregate. Separate information for each rental property was not provided. This prior documentation appeared to be sufficient to the agency at that time of her application as Petitioner's case was opened and she began receiving benefits.

After completing her SMRF, the agency again requested verification documents, including Petitioner's complete, signed 2023 tax return. Based on the record, this additional verification was requested because certain businesses owned or associated with Petitioner were identified through data exchange but not previously reported by Petitioner. *See Findings of Fact #4.* Petitioner's SMRF lists her only self-employment business as [REDACTED], with no mention of any other businesses with which she may operate. Due to the conflict between the data exchange reporting and Petitioner's SMRF, her responses were therefore questionable.

Petitioner does not contest that she has multiple active and inactive businesses entities, including those that own rental properties. She is apparently in the process of trying to sell some of those properties. She claims that she did not report each business in her SMRF because they do not earn income over expenses.

She also claims that the 2023 tax return and the aggregate SEIR she submitted in September should be sufficient to verify her income and eligibility.

Respondent was authorized to seek verification of self-employment income and expenses, especially once it identified questionable reporting in Petitioner's SMRF. The question is whether the agency had sufficient information to determine Petitioner's eligibility at the time it denied her benefits for failing to provide proof documents. The *BCP Handbook* § 9.8 offers the following general rules for verification:

1. **Over-verification, including requiring excessive pieces of evidence for any one item or requesting verification that is not needed to determine eligibility, is prohibited.** Once the accuracy of a written or verbal statement has been established, additional verification can't be required. For example, once U.S. citizenship is verified, a member or applicant never has to verify it again (see Section 4.2 Verifying U.S. Citizenship).
2. **If information has already been verified, the applicant or member does not need to verify it again except in the following situations:**
 - a. **There is reason to believe the information is fraudulent or differs from more recent information.** If fraud is suspected, the IM agency will determine if a referral for fraud or for front-end verification should be made (see Section 9.10 Questionable Items).
 - b. **The member reported a change to information that is subject to mandatory verification rules or is questionable.**
 - c. **At renewal, information is subject to mandatory verification rules or is questionable.**
3. **One particular type of verification can't be exclusively required when various types are adequate and available.**
4. Verification may be submitted in person, by mail, fax, e-mail, or electronically through ACCESS or the MyACCESS mobile app. Verification is not required to be presented in person.
5. Special groups or persons can't be targeted based on race, color, national origin, age, disability, sex, religion, or migrant status for special verification requirements.
6. The applicant or member can't be required to sign a release form (either blanket or specialized) when the applicant or member provides required verification.
7. Verification can't be required for information that is not used to determine eligibility.
8. During verification, the applicant or member can't be harassed or have their privacy, personal dignity, or constitutional rights violated.

(Emphasis added.) Further, "the applicant or member has primary responsibility for providing verification and resolving questionable information" and the agency "must use all available data exchanges to verify information rather than requiring the applicant to provide it, unless the information from the data source is not reasonably compatible with what the applicant or member has reported." *Id.*

The rules governing verification of self-employment income, including income generated from rental properties, are in *BCP Handbook* § 16.4.3. The agency may verify an applicant's sole proprietorships and rental property income through Form 1040, Schedule E. *Id.* at 16.4.3.2.2. The agency must assess the monthly countable income for each self-employment business and establish separate verification documentation in the agency's system for each business. *Id.* at § 16.4.3.4.1.

Petitioner asserts that she was advised by the agency that she had to supply her *businesses'* tax returns, not her personal tax return, but she does not file taxes for each of the individual businesses. Instead, in accordance with IRS guidance, she reports single-member LLCs on the owner's (Petitioner's) federal tax return on Schedule E, which was supplied to the agency in April and again in September. Petitioner argues that she cannot supply business tax returns that do not exist. I agree with Petitioner that a

complete and accurate personal tax return including Schedule E would suffice if business tax returns were not available to supply.

Petitioner supplied a version of her 2023 personal tax return in April 2023. Respondent argues that it was incomplete, unsigned, and unclear whether it was filed with the IRS because it lacked submission confirmation. Based on the return that Petitioner claims to have submitted to the agency, I do see these deficiencies. Further, [REDACTED] ([REDACTED]) and business [REDACTED] were not listed in Petitioner's Schedule E – both of these entities were specifically listed in the request for proof documents dated August 28, 2024. It is unclear to me whether Petitioner supplied an explanation to the agency as to why these were omitted from her tax return. Respondent was therefore warranted in finding that Petitioner's 2024 personal tax return was inadequate verification of her self-employment income and expenses on its face.

Per the *BCP Handbook* § 16.4.3.4.3.1, if an applicant's tax forms are not available, the applicant may also submit a SEIR form. An aggregate SEIR is inadequate for the agency to properly verify the applicant's self-employment and eligibility. It may have been easier for Petitioner to complete the SEIR in aggregate, but she did not provide an argument that completion of separate SEIRs for each business was not possible. I will note that Petitioner's September SEIR also did not address each of the businesses identified in the request for proof documents or explain which of her businesses were included by name. Petitioner argues that the September SEIR should have been sufficient as an aggregate SEIR was sufficient when she applied earlier in the year. However, at that time, her responses were not identified as questionable. Once the agency identified unreported businesses, it was within its authority to seek specific, individualized information about the income and expenses at each of Petitioner's businesses so that it could assess her eligibility.

As Petitioner did not submit adequate verification information by the stated deadline of September 16, 2024, the agency was within its authority to terminate her MA benefits as of October 1, 2024, as stated in the notice dated September 19, 2024.

CONCLUSIONS OF LAW

Respondent correctly terminated Petitioner's MA benefits for failure to provide verification of employment and income, effective as of November 1, 2024.

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, 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.

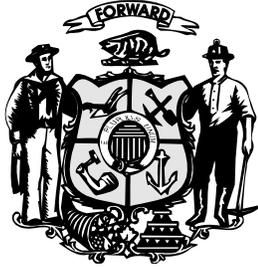
APPEAL TO COURT

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 Milwaukee,
Wisconsin, this 18th day of December, 2024

\s _____
Wendy I. Smith
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 December 18, 2024.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability