



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: MGE - 216109

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on November 27, 2024, under Wis. Stat. § 49.45(5), Wis. Admin. Code § HA 3.03(1), and Wis. Admin. Code § DHS 10.55, to review a decision by the Milwaukee Enrollment Services that Petitioner is not eligible for Medical Assistance (MA) and to review a decision by MY Choice, a managed care organization contracted by the Department of Health Services, that Petitioner is not eligible to remain enrolled in Family Care, a hearing was held on January 9, 2025, by telephone. Two appeal files were opened in response to Petitioner's hearing request: one regarding his eligibility for Medical Assistance and the other regarding his disenrollment from the Family Care Program (DHA Case No. FCP-216111); however, the substance of the decisions written under each case number is identical.

The issues for determination are whether the Department of Health Services, through its agents, properly determined: (1) that Petitioner was not eligible for health care benefits through the Community Waivers Program or any other Medical Assistance program as of December 1, 2024, and (2) that Petitioner is not eligible to remain enrolled in Family Care.

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: Stacy Green, MiLES  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Teresa A. Perez  
Division of Hearings and Appeals

## FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a 28-year old resident of Milwaukee County who has had an open Community Waivers case since October 2023 and who is currently receiving Family Care benefits through My Choice managed care organization (“MCO”).
2. In November 2024, Milwaukee Enrollment Services was alerted via a computer data exchange with the Social Security Administration that Petitioner does not have a current finding of disability.
3. Petitioner is employed and his gross (before taxes) monthly wages are approximately \$2,650.
4. By notice dated November 12, 2024, the agency informed Petitioner that he was not eligible for Community Waivers as of December 1, 2024 because he is not at least 65 years old, blind, or disabled and that he is not eligible for BadgerCare Plus because his income is over the BCP Program limit.
5. Because Petitioner was found to no longer be eligible for Medical Assistance benefits as of December 1, 2024, he was scheduled for disenrollment from Family Care as of December 1, 2024.
6. On November 27, 2024, Petitioner filed a request for fair hearing with the Division of Hearings and Appeals and benefits were ordered to be continued pending the outcome of the appeal.

## DISCUSSION

Family Care (FC) is a Medical Assistance funded long term care community waiver program intended to meet the long term care and health care needs of frail elders; individuals age 18 and older who have physical disabilities, as defined in Wis. Stat. §15.197 (4) (a) 2.; and individuals age 18 and older who have developmental disabilities, as defined in Wis. Stat. §51.01 (5) (a). Wis. Stat. §46.286(1). To receive Family Care benefits, an individual must not only fall into one of these three target groups but also meet functional eligibility requirements and quality for a full benefit category of Elderly, Blind, Disabled (EBD) Medicaid (e.g., Community Waivers); BadgerCare Plus; Well Woman Wisconsin Medical Assistance; Adoption Assistance; or Foster Care Medicaid. *MEHB* §28.1.2; see also, Wis. Stat. §46.286(1)(b).

Milwaukee Enrollment Services (“the agency”) found that Petitioner was no longer eligible for Community Waivers (or any other category of EBD Medicaid) as of December 1, 2024 because it received notification from the Social Security Administration that Petitioner does not have a current finding of disability. The agency correctly noted that to receive Community Waivers, a person must be at least age 65 or have been determined to be blind or disabled. See *MEH* §4.1, §5.2, and §28.1. Petitioner’s mother, [REDACTED], who appeared with Petitioner at hearing, testified that her son had previously received SSI based on a finding of disability and that he had never been told that he was no longer considered disabled. However, she acknowledged that his SSI had been terminated in the past because of his work activity and she presented no documentation to refute the Social Security data exchange record offered by the agency.

The agency next screened Petitioner for BadgerCare Plus. Childless adults as well as parents and caretakers of minor children may be eligible to receive BCP if they have income of no more than 100% of the federal poverty level (FPL) for the applicable test group size. *BadgerCare Plus Eligibility Handbook*

(*BCPH*) §16.1.1. As of February 2024, the income limit for a one-person test group was \$1,255 per month (i.e., \$15,060 per year). Wis. Stat. § 49.45(23)(a); *BCPH* § 50.1. That amount increased to \$1,304.17 as of February 1, 2025 (\$15,650 per year). *Id.* Individuals may also be found eligible for BCP if their annual income is reasonably expected to be under 100% FPL even if their income in particular months exceeds 100% FPL. See *BCPH* §16.9.

The agency representative testified that she reviewed paystubs dated September 20, 2024 and October 7, 2024 which showed that Petitioner worked an average of 85.5 hours per pay period and that he earned \$15.50 per hour. Petitioner agreed to the accuracy of the wages cited by the agency and did not assert or present evidence to establish that those wages were atypical for him. The agency thus correctly determined that Petitioner's gross monthly income is approximately \$2,650 which is over the current \$1,304.17 monthly income limit for BCP.

Because Petitioner was determined to no longer be eligible for a full benefit Medicaid program, MyChoice Family Care, Petitioner's MCO, correctly now seeks to disenroll Petitioner from Family Care.

Based on the evidence in the hearing record, I find that, as of December 1, 2024, Petitioner is not eligible for Community Waivers, any other category of Elderly, Blind, Disabled Medicaid, or BadgerCare Plus.

Finally, I note that there is a Medicaid program called the Medical Assistance Purchase Plan which allows some disabled people who are working to become or remain Medicaid eligible. See *MEHB* §26.1. Petitioner can file a Medical Assistance Disability Application at any time to be screened for that program. If he does so, the State will gather medical, work, and educational information, analyze whether he currently meets the legal standard to be considered disabled, and issue an appealable decision.

### CONCLUSIONS OF LAW

- (1) The agency properly determined that Petitioner was no longer eligible for Community Waivers as of December 1, 2024 because he does not have a current disability finding, is not blind, and is not at least 65 years old.
- (2) The agency properly determined that Petitioner's income exceeds the BCP income limit.
- (3) Petitioner is not eligible to remain enrolled in Family Care because he is not currently eligible for any full-benefit Medicaid program.

**THEREFORE, it is**

**ORDERED**

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.

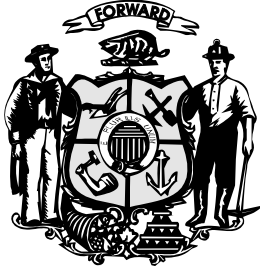
## **APPEAL TO COURT**

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 14th 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 14, 2025.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability