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[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

MGE/145382

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 20, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on December 26, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the Department erred in terminating the petitioner's Medical Assistance effective November 1, 2012 due to excessive income.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703

By: Mary Hartung  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. She received benefits under the EBD-Medicaid Program. She received benefits under the categorically needy criteria.
2. Petitioner's social security increased from \$777 to \$805 in October 2012.
3. The agency budgeted \$805 of unearned income (Social Security) for petitioner.

4. The Department sent notice to petitioner on October 1, 2012 informing her that she would be terminated due to excessive income effective November 1, 2012.
5. Petitioner filed a timely appeal.
6. Petitioner has been informed that her social security will be reduced to \$645 beginning in January 2013.

### DISCUSSION

A person is considered categorically needy for medical assistance if she meets all the conditions, whether financial or non-financial, necessary to be eligible for SSI. Wis. Admin. Code § DHS 101.03(23). Financial conditions relate to matters such as income and assets; non-financial conditions relate to matters such as age, pregnancy, or disability. A person is medically needy if she meets only the non-financial conditions. Wis. Admin. Code § DHS 101.03(97). If a person is medically needy she must pay a deductible if her income exceeds that allowed for medical assistance. See Wis. Stats. § 49.47(4)(c) 2; Wis. Admin. Code § DHS 103.08(2)(a).

In this case, petitioner was categorically eligible. Per the *Medicaid Eligibility Handbook* at Section 39.4, the current income threshold for a categorically needy one-person household is \$549.11 plus up to \$232.67 in actual shelter expenses. Petitioner has such expenses and gets the maximum shelter allowance leading to total income limit of \$781.78. Petitioner's social security is \$805. From that the Department correctly deducted the first 20 dollars of unearned income leading to a countable income of \$785 which exceeds \$781.78. As a result, although she is medically needy as a result of being disabled, the county agency correctly determined that she is ineligible for the program until she meets a deductible.

### CONCLUSIONS OF LAW

The Department did not err in determining that petitioner's increase in unearned income make her no longer categorically eligible for EBD-MA.

**THEREFORE, it is**

**ORDERED**

That this appeal is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,  
Wisconsin, this 1st day of February, 2013

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\sJohn P. Tedesco  
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 1, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability