



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCC/148433

PRELIMINARY RECITALS

Pursuant to a petition filed March 28, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Vernon County Department of Human Services ["County"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on April 23, 2013.

The issue for determination is whether petitioner's self-employment income for 2012 should be divided by 12 months or by the actual 7 months of his 2012 self-employment in order to arrive at a monthly income for purposes of BadgerCare Plus Core MA ["MA Core"].

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Bob Uebele, ESS

La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Vernon County.
2. Petitioner started his own business in June 2012.

3. In March 2013 petitioner submitted a Six-Month Report Form [“SMRF”] and his 2012 tax information was used to calculate his monthly self-employment income.
4. In calculating petitioner’s monthly income the County divided his total 2012 self-employment income by the actual 7 months that petitioner was self-employed in 2012 (rather than by 12 months); this caused petitioner to have a \$61 per month MA Core premium.

DISCUSSION

Petitioner argues that he should not have MA Core premium because his monthly income is below the premium cut-off when calculated by dividing his total 2012 self-employment income by 12 months (instead of the 7 months used by the County).

Self-employment income can be calculated by using Internal Revenue Service [“IRS”] tax forms that were completed for the previous year. *BadgerCare + Eligibility Handbook* [“BCEH”], 16.4.3.2. The self-employment income from the IRS tax forms is divided by the number of months that the business was in operation during the previous tax year. BCEH 16.4.3.2.2. In this case that was 7 months. Therefore, the County was correct in its calculation.

If past circumstances don't represent present circumstances, self-employment income can be calculated based on anticipated earnings. BCEH 16.4.3.2., 16.4.3.2.1.3. & 16.4.3.2.4. There is insufficient evidence in the record of this matter to show that petitioner’s 2012 self-employment income does not represent his present income. However, if that is the case then petitioner should contact the County and provide the County with that information and any required verification.

CONCLUSIONS OF LAW

For the reasons discussed above, petitioner’s self-employment income for 2012 is by the actual 7 months of his 2012 self-employment in order to arrive at a monthly income for purposes of MA Core.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 28th day of May, 2013

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
Suite 201
5005 University Avenue
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 May 28, 2013.

La Crosse County Department of Human Services
Division of Health Care Access and Accountability