



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MAP/150576

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 09, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Walworth County Department of Human Services in regard to Medical Assistance - Medicaid Purchase Plan (MAP), a telephone hearing was held on August 20, 2013.

The issue for determination is whether the county agency correctly set the petitioner's MAP premium.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Mia Anderson-Inman

Walworth County Department of Human Services  
W4051 County Rd NN  
Elkhorn, WI 53121-1006

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Walworth County.
2. The petitioner receives \$1,882.00 per month in SSDI each month, and \$7.25 in gross earned monthly income.
3. The record does not contain any evidence that petitioner has special exempt income, impairment related work expenses, or medical remedial expenses.

4. The county agency set the petitioner's Medicaid Purchase Plan premium at \$1,069.21.

### **DISCUSSION**

The Medicaid Purchase Plan allows disabled individuals to receive income, but retain their eligibility for medical assistance as long as their income falls below 250% of the federal poverty level, or \$2,041.67. Wis. Stat. § 49.472; *Medical Eligibility Handbook*, §§ 5.12.1., 5.12.4.2, and 8.1.6.; Wis. Adm. Code § HFS 103.03(8)(b). However, those whose gross income exceeds 150% of the federal poverty level, or \$1,225, must pay a premium. Wis. Adm. Code § 103.087(1)(b), *Medical Eligibility Handbook*, §§ 5.12.5.1 and 8.1.6. The premium is based upon net income, with only those amounts specifically allowed by Wis. Stat. § 49.472(4)(a), disregarded. These include certain types of income, impairment related work expenses, medical remedial expenses, and an \$813 standard maintenance allowance. *Medical Eligibility Handbook*, §§ 5.12.5.1 and 8.1.5.1. Because the program is meant to encourage recipients to work, the premium is only 3½% of net earned income **but 100% of net unearned income**. Wis. Stat. § 49.472(4)(a)1.

The petitioner objects to the \$1,069.21 premium set by the county agency. Each month she receives \$1,882.00 in SSDI unearned income and \$7.25 in earned income. She is entitled to only the \$813 standard maintenance allowance. When this is deducted from her unearned income it leaves \$1,069.00. Adding 3½% of her \$7.25 in earned income (\$0.21) to this amount equals \$1,069.21. The premium calculation scheme promulgated by the Wisconsin Administrative Code and included in the *Medicaid Eligibility Handbook* indicates that the correct premium is \$1,069.21, as was determined by the respondent. See, Wis. Adm. Code § DHS 103.04; *Medical Eligibility Handbook* § 26.5.1.

In testimony at hearing, the petitioner has, in effect, argued that the program standard is unfair and that the administrative law judge should grant her relief from the program requirements. It is the long-standing policy of the Division of Hearings & Appeals, Work & Family Services Unit, that the Department's assigned administrative law judges do not possess equitable powers. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. Under law, she is not eligible for a lower premium than that established by the respondent; no exception applies, and I am without any equitable powers to direct any remedy beyond the remedies available under law. Therefore, I must uphold its action.

### **CONCLUSIONS OF LAW**

The county agency correctly determined the petitioner's Medicaid Purchase Plan premium.

**NOW, THEREFORE, it is** **ORDERED**

That the petition herein be and the same hereby 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 2nd day of October, 2013

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\sPeter McCombs  
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 October 2, 2013.

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