



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/159010

**PRELIMINARY RECITALS**

Pursuant to a petition filed July 9, 2014, under Wis. Stat., §49.45(5)(a), to review a decision by the Winnebago County Dept. of Human Services to deny Medical Assistance (MA), a hearing was held on September 24, 2014, by telephone. A hearing set for August 21, 2014 was rescheduled at the parties' request.

The issue for determination is how to determine petitioner's household income.

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Leslie Vosters  
Winnebago County Dept. of Human Services  
P.O. Box 2187  
Oshkosh, WI 54903-2187

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Winnebago County.
2. Petitioner applied for BadgerCare Plus (BC+) MA on June 13, 2013. She presented both a business tax return for partnership that operates a family farm, and also personal tax returns. When the income from the two tax returns was added together, it averaged \$5,241 per month. By a notice dated June 24, 2014, the county denied BC+ because income was over the limit.

3. Income from the business was offset on a different tax return schedule. Actual household income is seen on Line 37 of the 1040 form and is under \$2,000 per month.

### DISCUSSION

Prior to April 1, 2014, the income limit for BC+ was 200% of the FPL. State law changed effective April 1, 2014. As of that date the limit for caretaker parents was reduced to 100% of the FPL, which, for a four-person household, is \$1,987.50. See Wis. Stat., §49.471(4)(a)4.b for the new law, and the BC+ Handbook, Appendix 50.1 for the limit.

Self-employment income rules also changed. Previously expenses such as depreciation were added back to business income. Handbook, App. 16.4.3.2.3.

The reason that business income was reduced on the 1040 form was due to previously non-allowed expenses such as Section 179 expenses. Petitioner's accountant explained the tax returns, and it is apparent that the correct yearly income to be used is from Line 37 of the 1040 form divided by 12.

### CONCLUSIONS OF LAW

Petitioner's income was determined incorrectly due to confusing tax returns, and the correct income is found on Line 37 of the family's 1040 form.

**THEREFORE, it is**

**ORDERED**

That the matter be remanded to the county with instructions to re-determine petitioner's BC+ eligibility using the income from Line 37 of the personal 1040 form as the yearly household income. The agency shall take the action within 10 days of this decision.

### **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, 5005 University Avenue, Suite 201, 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, Madison, Wisconsin 53703, **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 25th day of September, 2014

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\sBrian C. Schneider  
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 September 25, 2014.

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