



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MAP/159026

PRELIMINARY RECITALS

Pursuant to a petition filed July 15, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Green County Department of Human Services in regard to Medical Assistance, a telephonic hearing was held on September 04, 2014, at Monroe, Wisconsin.

The issue for determination is whether the county agency met its burden of proof to establish that it was correctly discontinuing the petitioner’s MAPP benefits effective August 1, 2014, due to no longer meeting the “work” requirement for that program.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Mark Nelson, ES Supervisor

Green County Department of Human Services
N3152 State Road 81
Monroe, WI 53566

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Green County who resides with her husband, [redacted].
2. The petitioner and her husband receive Medicaid Purchase Plan (MAPP) benefits.

3. The petitioner is employed for the [REDACTED] [REDACTED] and receives Social Security.
4. Petitioner's husband is disabled and receives monthly Social Security of \$1,655.
5. The county agency sent a July 3, 2014 Notice of Decision to the petitioner stating that her husband's MAPP benefits would discontinue effective August 1, 2014, because he was not meeting the "work" requirement of the MAPP program.
6. The petitioner asserted that her husband was performing bartering (basically in-kind work) doing the cooking for her while she does the laundry for him.
7. The county agency representative stipulated that there is no specific MAPP policy indicating that "bartering" between spouses is not an acceptable work activity for her husband to continue his MAPP eligibility.
8. After being contacted by the county agency, a DHS policy help desk representative offered the hearsay opinion that such "bartering" between spouses was not an acceptable MAPP work activity, but was unable to provide any specific MA policy to support such opinion.

### DISCUSSION

The MA Handbook provides:

To meet the work requirement, a member must engage in a work activity at least once per month, or be enrolled in a Health and Employment Counseling. Consider a member to be working whenever s/he received something of value as compensation for his/her work activity.

This includes wages or **in-kind payments**. The exceptions are loans, gifts, awards, prizes, and reimbursement for expenses.

(Emphasis added).

Medicaid Eligibility Handbook, 26.3.3.

During the September 4, 2014 hearing, petitioner explained that her husband can not physically work outside of the home. Instead, she argued that her husband performs "in-kind" or "bartering" work by doing the cooking for her while she does the laundry for him. The county representative indicated that he was unable to find any MA policy which states that such a "bartering" arrangement is not an allowable work activity for MAPP eligibility. The county agency only discontinued petitioner's husband's MAPP due to the DHS policy help desk representative's opinion.

After reviewing the MAPP policy, I agree with the county representative that there is no specific policy to support the DHS representative's hearsay opinion that petitioner did not meet the MAPP work requirement. Furthermore, petitioner's husband cooking could be considered "in-kind" payment to his wife for which she returns the payment with her "in-kind" work doing the laundry for him. Clearly, the work requirement threshold is very low if working only once per month is sufficient to meet that requirement. Accordingly, based upon the hearing record, I conclude that the county agency failed to meet its burden of proof to establish that it correctly discontinued the petitioner's MAPP benefits effective August 1, 2014, due to no longer meeting the "work" requirement for that program.

### CONCLUSIONS OF LAW

The county agency failed to meet its burden of proof to establish that it correctly discontinued the petitioner's MAPP benefits effective August 1, 2014, due to no longer meeting the "work" requirement for that program.

**THEREFORE, it is**

**ORDERED**

The matter is remanded to the county agency with instructions to restore the petitioner's husband's MAPP benefit eligibility retroactive to August 1, 2014, within 10 days of the date 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 10th day of October, 2014

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\sGary M. Wolkstein  
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 10, 2014.

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