



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

In the Matter of

[REDACTED]
[REDACTED]
Neillsville, WI 54456

DECISION

CWA/161793

PRELIMINARY RECITALS

Pursuant to a petition filed November 7, 2014, under Wis. Admin. Code § HA 3.03, to review a decision by the La Crosse County Department of Human Services in regard to Medical Assistance (MA), a hearing was held on February 17, 2015, by telephone.

The issues for determination are (1) whether petitioner's appeal was timely filed, and (2) whether the Department correctly denied the petitioner's July 2014 MA/BadgerCare Plus application due to excess income.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED] |
[REDACTED]
Neillsville, WI 54456

Respondent:

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

By: [REDACTED], ES Spec.
La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Clark County.

2. The petitioner applied for MA/BadgerCare on July 30, 2014. On August 27, 2014, the Department sent a written notice of negative action to the petitioner at her correct address. The petitioner received this notice.
3. The petitioner filed a hearing request that was received by the Division of Hearings and Appeals on November 7, 2014.
4. The negative action in this case was denial of eligibility for (1) Elderly/Blind/Disabled MA and (2) BadgerCare Plus. In August 2014, the petitioner had gross income of \$2,382.75 (\$1,466 Social Security Disability + \$916.75 disability insurance). The income limit for EBD MA is \$591.67; the income limit for BadgerCare Plus is \$72.50. She also receives Medicare Part A and B.

DISCUSSION

A hearing officer can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by a county agency concerning MA/BadgerCare Plus must be filed within **45** days of the date of the action. Wisconsin Stat. § 49.45(5); *Income Maintenance Manual* § 3.3.1. A negative action can be the denial of an application or the reduction or termination of an ongoing case. The petitioner's appeal was filed **72** days after the date of the action. Thus, it was untimely, and no jurisdiction exists for considering the merits of the case.

The petitioner's appeal related to Family Care eligibility will be dealt with in a separate decision.

CONCLUSIONS OF LAW

There is no jurisdiction as the appeal is untimely.

THEREFORE, it is **ORDERED**

That the petition is dismissed.

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 18th day of February, 2015

\sNancy J. Gagnon
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 18, 2015.

La Crosse County Department of Human Services
Bureau of Long-Term Support
ADRC-BCP@buffalocounty.com