



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of:



DECISION

BCS/168710

**PRELIMINARY RECITALS**

Pursuant to a petition filed September 12, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Oneida County Department of Social Services [“County”] in regard to Medical Assistance [“MA”], a Hearing was held via telephone on October 15, 2015.

The issue for determination is whether it was correct to discontinue petitioner’s BadgerCare Plus MA [“BC+”] effective August 1, 2015 due to income from an S Corporation owned by petitioner’s wife.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

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

BY:  ESS  
Oneida County Department of Social Services  
Oneida Avenue  
PO Box 400  
Rhinelander, WI 54501

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Oneida County, Wisconsin.

2. Petitioner's wife is 100% owner of an S Corporation known as *Laura's Cafe* which she purchased in March 2015. Exhibits #2, #3 & #7.
3. *Laura's Cafe* had net monthly business income of -\$661.01 in March 2015, \$5,380.67 in April 2015, and \$6,343.96 in May 2015; over those 3 months the net monthly income averaged \$3,687.87 ( $\$6,343.96 + \$5,380.67 - 661.01 = \$11,063.62$ ;  $\$11,063.62/3 = \$3,687.87$ ). Exhibits #2 & #3.
4. By an *About Your Benefits Notice* dated June 29, 2015 the County notified petitioner that his BC+ would end effective August 1, 2015 due to being over the income limit. Exhibit #4.

### DISCUSSION

All taxable income is counted when determining BC+ eligibility. *BadgerCare Plus Eligibility Handbook* ["BC+ Handbook"] 16.1.3. Petitioner does not deny he is over the BC+ income limit if income from *Laura's Cafe* is counted. Instead, he argues that income from *Laura's Cafe* should not count because it is an S Corporation and the income is put back into the business. However, for BC+ income includes self-employment income. BC+ Handbook 16.4.3. Income from a Subchapter S Corporation is considered self-employment income and is counted. BC+ Handbook 16.4.3.2.2.4.

Petitioner's wife testified that they were refused health insurance on the federal marketplace because the federal marketplace stated they were eligible for BC+. Petitioner may eligible for BC+ under "Gap Filling" rules. See, BC+ Handbook 16.1.4; see also, *DHS Operations Memo* No.: DHS 14-41 Date September 24, 2014. Petitioner should ask the County about this possibility.

### CONCLUSIONS OF LAW

For the reasons explained above, it was correct to discontinue petitioner's BC+ effective August 1, 2015 due to income from an S Corporation owned by petitioner's wife.

**NOW, THEREFORE, it is**

### ORDERED

that this the petition for review herein be and the same is hereby 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 26th day of October, 2015

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\sSean P. Maloney  
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 26, 2015.

Oneida County Department of Social Services  
Division of Health Care Access and Accountability