



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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/171841

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 02, 2016, under Wis. Stat. § 49.45(5)(a), to review a decision by the Dane County Department of Human Services in regard to Medical Assistance (MA), a telephone hearing was held on March 08, 2016.

The issue for determination is whether the respondent correctly determined petitioner’s income for MA eligibility purposes.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

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Respondent:

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

By: [REDACTED]

Dane County Department of Human Services  
1819 Aberg Avenue  
Suite D  
Madison, WI 53704-6343

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County.
2. The petitioner lives alone.

3. The petitioner holds an interest in an [REDACTED]. His 2014 federal income tax return, the latest available, indicates that his countable income for MA purposes was \$2,677.47 per month.
4. For a one-person household, 100% of the federal poverty level was \$980.00 per month. *BadgerCare Plus Eligibility Handbook*, § 16.1.

### DISCUSSION

BadgerCare Plus is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. The program's nonfinancial eligibility standards were broadened effective April 1, 2014, to include adults who do not have minor children in their home. Wis. Stat. § 49.45(23); 2013 Wisconsin Act 116, § 29, for effective date; *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1, online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm>. (2015) The petitioner meets the nonfinancial eligibility tests for the program.

The petitioner must also pass an income test. An eligible adult applicant cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1. The 100% FPL amount is \$980 monthly for a household of one through February 1, 2015. *Id.*, § 50.1.

The Department calculated income for this household of \$2,677.47. That figure resulted from the subtraction of income tax deductions listed on lines #23 through #35 of the federal 1040 tax return, subject to modifications listed at 42 C.F.R. § 435.603(e) from petitioner's gross income. No deductions were identified that would pull the household income under the FPL for one person.

The county agency determined that the petitioner is ineligible for MA after determining that his adjusted income exceeds the federal poverty level. The source of contention between the parties is whether income reported on his federal income tax return counts toward the limit, if, as the petitioner contends, that reported income is not a true demonstration of his actual income. The petitioner testified that he does not actually receive the income that his accountant reports. In fact, in his appeal filing, petitioner alleges that his accountant "is doing something wrong on my taxes." He further asserts that he only pays himself when the company has extra funds, and is only barely getting by financially.

Petitioner's stated business income cannot be disregarded. While I have no reason to doubt that much of his income is earmarked to pay obligations, that does not mean that it can be disregarded for MA budgeting purposes. It is up to him to prove by the preponderance of the credible evidence that he is eligible for MA, which requires him to prove that he does not receive income from his [REDACTED] that exceeds MA program limits. Because his federal income tax return indicates that he does receive such income from the corporation, he has not met his burden of proving that he is eligible for MA.

### CONCLUSIONS OF LAW

The petitioner is ineligible for MA because his gross countable income exceeds the federal poverty level.

**THEREFORE, it is**

**ORDERED**

The petitioner's appeal 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 28th day of March, 2016

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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 March 28, 2016.

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