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[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: BCS - 211320

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on December 11, 2023, under Wis. Stat. § 49.45(5)(a), to review a decision by the Dane Cty. Dept. of Human Services regarding Medical Assistance (MA), a hearing was held on January 17, 2024, by telephone.

The issue for determination is whether

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Kelli Robl

Dane Cty. Dept. of Human Services  
1819 Aberg Avenue  
Suite D  
Madison, WI 53704-6343

**ADMINISTRATIVE LAW JUDGE:**

Beth Whitaker  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County.
2. On October 30, 2023, petitioner applied for BadgerCare Plus (BCP) Medical Assistance benefits.

3. On October 30, 2023, the agency issued to petitioner a summary of information she provided in her application.
4. On October 31, 2023, the agency issued to petitioner a notice instructing her to provide proof of employment and earned income for [REDACTED], a member of her household, from [REDACTED] by November 29, 2023.
5. On November 27, 2023, petitioner unsuccessfully attempted to fax proof of income to the agency.
6. The agency did not receive the required verification by November 29, 2023 nor did it receive from petitioner a request to extend the deadline or any other communication.
7. On November 30, 2023, the agency issued to petitioner an About Your Benefits notice informing her that her application for Medical Assistance was denied because she failed to provide required verification.

### DISCUSSION

BadgerCare Plus is Wisconsin's medical assistance program for those who are not elderly or disabled. Adults are ineligible if their household income exceeds the federal poverty level. Wis. Stat. § 49.471(4)(a); Medicaid Eligibility Handbook § 39.5; BadgerCare Plus (BCP) Handbook, § 50.1. To be eligible for BadgerCare Plus, a person must meet certain non-financial and financial requirements. BCP Handbook 1.1.1.

Proof of certain information is required to determine eligibility for BadgerCare Plus. Mandatory and questionable items must be verified at application, renewal, person addition or deletion, or when there is a change in circumstance that affects eligibility or benefit level. One time only verification items do not need to be re-verified. BCP Handbook 9.1. Income is a mandatory verification item. BCP Handbook 9.9.6. Verification means to establish the accuracy of verbal or written statements made by, or about a group's circumstances. Case files or case comments must include documentation for any information required to be verified to determine eligibility or benefit levels.

In this case, the agency issued a request for verification of the Petitioner's household income on October 31, 2023. Petitioner received the notice. She and [REDACTED] testified that they made a good faith effort to provide the requested income verification information by going to a public library location to fax the information to two different fax numbers. Petitioner provided documentation of two faxes transmitted on the afternoon of November 27, 2023, one of which was documented to have been received. Petitioner was unable to say what numbers the documents were faxed to. She did not have evidence that the agency received the information. The agency representative testified that she thoroughly investigated the matter and found no evidence that the November 27, 2023 fax was received. (She also noted that after petitioner's application was denied, the agency obtained income information for [REDACTED] for November and December 2023 through employer-reported information to SWICA (State Wage Information Collection Agency) but still does not have information to verify October 2023 wages.)

Based on this hearing record, the agency did not receive the required verification. It was therefore unable to establish that petitioner was eligible for Medical Assistance. I am sympathetic to petitioner because it appears that she made significant effort to provide the required information and either due to her inadvertent error or for reasons beyond her control, she was unsuccessful. I am not able to take her intentions and good faith efforts into account in the interests of fairness. It is the long-standing policy of the Division of Hearings & Appeals that its assigned administrative law judges do not possess equitable powers, and cannot base a ruling upon an idea of what is deemed fair. See, *Wisconsin Socialist Workers 1976 Campaign Committee v. McCann*, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. Under law, petitioner was required to provide proof by the agency's deadline and failed to do so. I must find that

the agency correctly denied petitioner’s October 30, 2023 application for BadgerCare Plus effective October 1, 2023.

However, as the agency representative stated at hearing, medical assistance eligibility can be made retroactive to “the first day of the month 3 months prior to the month of application.” Wis. Admin. Code, § DHS 103.08(1). The Medicaid Eligibility Handbook states the following in regard to retroactive eligibility:

... If certifying for retroactive BadgerCare Plus, do not go back further than the first of the month, three months prior to the application month. Certify the person for any backdate month in which he or she would have been eligible had he or she applied in that month. In the case of children, certify the person for any backdate month in which he or she would have been eligible had he or she applied in that month and in which their assistance group income was at or below the appropriate FPL level for their age group. ...

Medicaid Eligibility Handbook, § 25.8.1

If she has not already done so at the time of receipt of this decision, petitioner is advised to file a new application for BCP benefits and request backdating to October 1, 2023.

### **CONCLUSIONS OF LAW**

The agency correctly found petitioner ineligible for Medical Assistance effective October 1, 2023 based on her October 30, 2023 application because she failed to provide information required for verification of income.

**THEREFORE, it is ORDERED**

That the petition for review 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, 4822 Madison Yards Way, 5<sup>th</sup> Floor North, 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, **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).

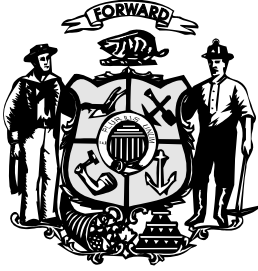
The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 18th day of January, 2024



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Beth Whitaker  
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 January 18, 2024.

Dane Cty. Dept. of Human Services  
Division of Health Care Access and Accountability