



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/169899

PRELIMINARY RECITALS

Pursuant to a petition filed November 04, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Dane County Department of Human Services in regard to Medical Assistance, a hearing was held on January 19, 2016, at Madison, Wisconsin.

The issue for determination is whether petitioner and his wife were correctly denied BC+ eligibility because the family exceeds the income limit of 100% FPL.

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

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [Redacted]) is a resident of Dodge County.
2. Petitioner and his family were previously receiving BC+ from 2014 into 2015. Petitioner's household numbers 4.

3. In 2014, petitioner was employed at [REDACTED]. The agency worker made an error in inputting the income data and incorrectly stated the income as bi-weekly instead of weekly. This resulted in the income budgeted to petitioner being half of what it actually was.
4. This error was found by the agency in 2015 and petitioner was found to be over the BC+ income limit for adults. Petitioner's children remained eligible.
5. Petitioner appealed.

### 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 changed effective April 1, 2014, to include adults of minors only if adjusted gross income does not exceed 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1. The 100% FPL amount is \$2,020.83 monthly for a household of four. *Id.*, § 50.1. Petitioner's income was calculated by the agency to \$2,297.58. Petitioner did not dispute this. He and his wife are not eligible and must seek health coverage from his employer or the Federal Marketplace.

This was an agency error which led to coverage for petitioner and his wife for the past year which it appears they should have not been receiving. Because this was an agency error, the agency cannot recover the overpaid funds. But, the agency did not err in now correcting its error.

### CONCLUSIONS OF LAW

The county agency correctly denied BC+ for petitioner as his income exceeds 100 percent FPL.

**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 21st day of January, 2016

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\sJohn P. Tedesco  
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 21, 2016.

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