



FH  
[REDACTED]

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

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In the Matter of:

[REDACTED]

DECISION

BCS/143138

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 15, 2012, under Wis. Stat. §49.45(5) (2009-10) and Wis. Adm. Code § HA 3.03 (September 2001), to review a decision by the Wood County Department of Human Services ["County"] in regard to BadgerCare Plus Medical Assistance ["BC+"], a Hearing was held via telephone on September 27, 2012.

The issue for determination is whether petitioner is eligible for BC+.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Department of Health Services

P.O. Box 7850

Madison, Wisconsin 53707-7850

BY: Beulah Garcia, Sawyer County ES Supervisor, Resolution Coordinator

Northern IM Consortium

Sawyer County Courthouse

Suite 224

10610 Main

Hayward, Wisconsin 54843

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney

Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Wood County, Wisconsin.
2. Petitioner is over the income limit for BC+
3. Petitioner's BC+ was terminated effective August 1, 2012 because she is over the income limit.

**DISCUSSION**

In general, all available gross income is counted when determining BC+ eligibility. *BadgerCare + Eligibility Handbook* ["BC+EH"] 16.1. Certain types of income are disregarded. However, petitioner does not have any of the types of income that are disregarded. BC+EH 16.2.

With certain exceptions not applicable here, a person is eligible for BC+ only if the countable monthly family income does not exceed 200% of the Federal Poverty Level ["FPL"]. Wis. Stat. § 49.471(4) (2009-10); BC+EH 16.1. *Family income* means the total gross earned and unearned income received by all members of a family (except that earnings of children under 18 years of age are disregarded). Wis. Stat. §§ 49.471(1)(f) & 49.471(7)(c)2. (2009-10). It is noted that the income of petitioner's son is not earned income -- it is unearned income he receives from Social Security. Therefore, it must be counted. See, is eligible for BC+.

Petitioner does not dispute that she is over income for BC+. However, petitioner requests an exception to the income limit because she is disabled and has high medical expenses.<sup>1</sup> Petitioner's circumstances are sympathetic. However, the legal income requirements for BC+ eligibility do not allow for an exception as requested by petitioner.

**CONCLUSIONS OF LAW**

For the reasons explained above, petitioner is not eligible for BC+.

**NOW, THEREFORE, it is**

**ORDERED**

that the petition for review herein be and the same is hereby DISMISSED.

**REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

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<sup>1</sup> Medical expenses are not allowed as a deduction from income for purposes of BC+ BC+EH 16.3.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,  
Wisconsin, this 15th day of October, 2012

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Sean 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 15, 2012.

Wood County Human Services - WI Rapids  
Division of Health Care Access and Accountability