



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

BCB/143599

PRELIMINARY RECITALS

Pursuant to a petition filed August 31, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Marathon County Department of Social Services in regard to Medical Assistance, a Hearing was held via telephone on October 25, 2012. At petitioner's request a Hearing scheduled for September 25, 2012 was rescheduled.

The issue for determination is whether or not it was correct to discontinue petitioner's BadgerCare Plus Medial Assistance ["BC+"] effective September 1, 2012.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Kris Weden, ES Supervisor
Anikka Wattnem, ESS

Marathon County Department of Social Services
400 E. Thomas Street
Wausau, WI 54403

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Marathon County.

2. Petitioner lives with her minor daughter and that daughter's father (there are also other children in the household); petitioner is not married to the father of her minor daughter.
3. The father has earned income of approximately \$5,800 per month.
4. When calculating petitioner's Family Income for purposes of BC+ the County counted the income of the father.
5. The County closed petitioner's BC+ effective September 1, 2011 because her Family Income is over the BC+ income limit.

DISCUSSION

Petitioner does not dispute that, if the income of her minor daughter's father is counted, she is over the BC+ income limit.¹ Petitioner argues, however, that his income should not be counted as income for her BC+ case. She argues that "I should not have to marry him to get insurance."

For purposes of BC+ family income means the total gross earned and unearned income received by all members of a family. Wis. Stat. § 49.471(1)(f) (2009-10); *BadgerCare + Eligibility Handbook* ["BC+EH"] 16.1. & 16.3.1. If a person who is receiving BC+ lives with their child and the child's other parent also lives with them then the income of both parents must be counted as part of the total Family Income. Wis. Stat. §§ 49.471(1)(e) & (f) (2009-10); BC+EH 2.2.1.3. & 2.6.

As noted in the above *Findings of Fact*, the father of petitioner's minor daughter lives with petitioner and has income. His income must be counted as part of petitioner's Family Income because he and petitioner live together and have a child in common. Thus, the County was correct to discontinue petitioner's BC+

CONCLUSIONS OF LAW

For the reasons explained above, it was correct to discontinue petitioner's BC+ effective September 1, 2012.

NOW, THEREFORE, it is

ORDERED

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

¹ With certain exceptions, 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).

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.

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 served and 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, 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 16th day of November, 2012

/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 November 16, 2012.

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