



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCS/144223

PRELIMINARY RECITALS

Pursuant to a petition filed September 29, 2012, under Wis. Stat., §49.45(5)(a), to review a decision by Brown County Human Services to discontinue Medical Assistance (MA), a hearing was held on October 31, 2012, by telephone.

The issue for determination is whether the county correctly determined petitioner's income for August, 2012 BadgerCare Plus (BC+).

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Theresa Sommerfeldt
Brown County Human Services
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.
2. Petitioner was eligible for BC+ for a two-person household. In July, 2012, a data exchange showed that petitioner started to receive social security disability income. That income was added to other household income, including unemployment compensation (UC), child support, and social security surviving child benefits.

3. The total income in the household was \$3,293. By a notice dated July 16, 2012, the county informed petitioner that BC+ would close effective August 1, 2012. Petitioner's daughter would be eligible for the BC+ Benchmark Plan with a \$44 premium.
4. Petitioner's UC ended in August, 2012. The UC office informed petitioner that UC paid in July and August was overpaid, and she is liable to repay some \$2,000 in UC issued those months.

DISCUSSION

Under BC+ rules the income limit for caretaker parents is 200% of the poverty level. BC+ Handbook, Appendix 16.1. That amount for a two-person household is \$2,521.67. Handbook, App. 50.1. There is no limit for a child, but if household income is over 200% children are eligible for the BC+ Benchmark Plan with a premium. Handbook, App. 1.1.1.

The issue in this case is whether the county correctly determined income for August, 2012. Effective September 1, 2012, the UC income was removed from petitioner's case and income again fell below 200% of the poverty level, making the household eligible for the BC+ standard plan again.

The income calculated by the county was correct. In July and then into August petitioner received UC along with the social security and child support. The question to be answered is whether the UC should be removed retrospectively since, it was later determined, petitioner should not have received it and has to repay it.

In reviewing program rules, there is no mechanism for recalculating eligibility retrospectively as requested by petitioner. All available gross income is counted when determining BC+ eligibility. Handbook, App. 16.1. The fact is that when the calculations were made, petitioner received the UC, and thus it was counted properly. The Handbook provides for excluding repayments from income when the repayments are actually repaid, not retrospectively. See App. 16.2, no. 20.

CONCLUSIONS OF LAW

The county correctly determined BC+ eligibility for August, 2012; the case cannot be re-determined retrospectively later after UC was determined to be overpaid.

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.

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 6th day of November, 2012

Brian C. Schneider
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 6, 2012.

Brown County Human Services
Division of Health Care Access and Accountability