



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

BCC/145186

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 9, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Rock County Department of Social Services in regard to Medical Assistance (MA)/BadgerCare Plus Core Plan, a hearing was held on February 6, 2013, at Janesville, Wisconsin.

The issue for determination is whether the petitioner's BCP Core Plan (BCP-C) was correctly discontinued effective October 1, 2012, due to excess income.

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: Pam Edmonds, ES Supr.  
Rock County Department of Social Services  
1900 Center Avenue  
PO Box 1649  
Janesville, WI 53546

**ADMINISTRATIVE LAW JUDGE:**

Nancy J. Gagnon (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

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

2. The BadgerCare Plus Core (BCP-C) Plan is a Wisconsin variant of MA for low-income, non-disabled, non-elderly, childless adults. The petitioner and his wife were certified for BCP-C prior to October 1, 2012. His case was due for an annual “renewal” by September 30, 2012.
3. On September 12, 2012, the Department issued written notice to the petitioner advising that his BCP-C would be discontinued effective October 1, 2012. The basis for discontinuance was excess income.
4. The petitioner is disabled. He resides with his spouse, so her income must also be considered in determining the petitioner’s financial MA eligibility. Their combined gross income is \$2,532.00.
5. The petitioner’s household income exceeds the \$2,521 gross income limit for BCP -C.

### DISCUSSION

BCP-C is authorized by Wis. Stat. §49.45(23) and a federal waiver document. To qualify for BCP, a person must meet both non-financial and financial requirements. The petitioner appears to have satisfied all nonfinancial requirements.

Although there is no asset test, the BCP-C program has an income limit for participants of 200% of the federal poverty level (FPL). *BadgerCare Plus Eligibility Handbook (BCPEH)*, §43.7.2. The 200% limit is required by statute:

**(23) ASSISTANCE FOR CHILDLESS ADULTS DEMONSTRATION PROJECT .**

**(a)** The department shall request a waiver from the secretary of the federal department of health and human services to permit the department to conduct a demonstration project to provide health care coverage for basic primary and preventive care to adults who are under the age of 65, who have family incomes not to exceed 200 percent of the poverty line, and who are not otherwise eligible for medical assistance under this subchapter, the Badger Care health care program under s. 49.665, or Medicare under 42 USC 1395 et seq. If the department creates a policy under sub. (2m) (c) 10., this paragraph does not apply to the extent that it conflicts with the policy.

Wis. Stat. §49.45(23)(a). Throughout the fall of 2012, 200% FPL for a group of two persons was \$2,521. *BCPEH*, §50.1, available at [www.emhandbooks/wisconsin.gov/bcplus/](http://www.emhandbooks/wisconsin.gov/bcplus/). The petitioner’s household income was above that level. Effective February 1, 2013, the 200% level is \$2,585; however, the program currently has a waiting list to re-join.

The petitioner does not contest that his household income exceeded 200% FPL. He did complain that he has been given misleading and varied information by multiple agency workers. However, regardless of what the petitioner was told, I have no ability to waive the 200% FPL income limit, which is statutory. Thus, I must conclude that the petitioner was not eligible for BCP-C from October 1, 2012, forward.

The petitioner may wish to look into the state’s high risk insurance pool program, at <http://hirsp.org/>.

**CONCLUSIONS OF LAW**

1. The petitioner was ineligible for BCP-C from October 1, 2012, forward, due to excess income.

**THEREFORE, it is**

**ORDERED**

That the petition is 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 7th day of February, 2013

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\sNancy J. Gagnon

Division of Hearings and Appeals





**State of Wisconsin \DIVISION OF HEARINGS AND APPEALS**

David H. Schwarz  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on February 7, 2013.

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