



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/147451

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 16, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Washington County Department of Social Services in regard to Medical Assistance, a hearing was held on April 18, 2013, at West Bend, Wisconsin.

The issue for determination is whether the agency properly terminated the Petitioner BadgerCare benefits effective March 1, 2013.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Julie Williamson

Washington County Department of Social Services  
333 E. Washington Street  
Suite 3100  
West Bend, WI 53095

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Washington County.
2. Petitioner has resided with the father of one of her children (ML) for approximately two years. Petitioner's household consists of herself, ML and two minor children.

3. ML's gross income for January, 2013 was \$5,847.00. Petitioner has monthly income of \$440 from child support.
4. On January 30, 2013, the agency issued a Notice of Decision to the Petitioner informing her that effective March 1, 2013, she is not eligible for BC+ benefits due to household income in excess of the program limit.
5. On February 16, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### DISCUSSION

Wisconsin's BadgerCare Plus (BC+) program, as set forth in Wis. Stats. §49.665, is intended to provide basic health care coverage for low-income families that do not have access to employer-subsidized health insurance. The Wisconsin Department of Health Services is charged with establishing the criteria for determining income under BC+ as follows:

1. A family meets the financial eligibility requirements for BadgerCare on its initial application if its income does not exceed 185% of the poverty line, Wis. Stats. §49.665(4)
2. A family that is already participating in BadgerCare maintains its eligibility if its income does not exceed 200% of the poverty line.

Wis. Stats. §49.665(4) (a).

All available household income is counted in determining BC+ eligibility unless some specific exception applies. BC+ Handbook, 16.1, "Income." The income that is counted is determined by who is included in the BC+ "Test Group." The Handbook defines the "Test Group" as:

". . . the primary person and any individuals living in his/her household whose income and/or needs are considered when determining financial eligibility. Inclusion in the Test Group is determined by qualifying relationships and legal responsibility. . ." BC+ Handbook, § 2.2.

The Handbook further discusses qualifying relationships and legal responsibility:

"The BC+ Test Group for a primary person who is residing with his or her child . . . will include the following individuals:

- . . .
2. A child under age 19 of the primary person or the primary person's spouse.
  3. A co-parent of a primary person's child or the co-parent of the spouse's child. . ."

A parent residing with his or her child under the age of 19 must be in the same BC+ Test Group. . ."

BC+ Handbook, § 2.2.1.

In the instant appeal, the Petitioner's case is an appeal of the March 1, 2013 discontinuance of Petitioner's BC+ benefits due to excess income. As explained above, the applicable income limit for a BC+ recipient is 200% of the poverty line. The agency included the Petitioner's income as well as that of ML in determining that Petitioner is not eligible due to income in excess of program limits. The Petitioner argues that ML's income should not be included in determining her eligibility. She noted that they have lived together for two years and his income was not previously counted. She further noted that they are not married and therefore she cannot get insurance through his employer. The agency noted that he would have become a member of the Test Group once their child in common was born in February, 2012.

The Test Group clearly includes ML in this case as he is a parent of a child residing in the house and a co-parent of the Petitioner's child.

The current income limit for a household of four is \$3,925/month pursuant to the BC+ Eligibility Handbook, §50.1, "FPL Tables." The Petitioner's household income of \$6,287/month exceeds that limit. The agency properly denied BC+ benefits to the Petitioner for household income in excess of program limits.

**CONCLUSIONS OF LAW**

The agency properly terminated the Petitioner's BC+ benefits.

**THEREFORE, it is ORDERED**

That the petition be, and hereby 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 Milwaukee,  
Wisconsin, this 9th day of May, 2013

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\sDebra Bursinger  
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 May 9, 2013.

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