



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCB/147632

PRELIMINARY RECITALS

Pursuant to a petition filed February 26, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Waupaca County Department of Social Services in regard to Medical Assistance, a hearing was held on April 22, 2013, at Waupaca, Wisconsin.

The issue for determination is whether the Department erred in its termination of petitioner from BC+ effective March 1, 2013 due to the determination that her income exceeds limits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner's Representative:

Attorney Mark McLeod
P O Box 200
Dale, WI 54931

Respondent:

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

By: Judy Deschler

Waupaca County Department of Social Services
811 Harding Street
Waupaca, WI 54981-2087

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Waupaca County.
2. Petitioner had previously been a member of BC+ Standard Plan for herself and her child.

3. Petitioner received child support income in the amount of \$275 every two weeks between 11/10/12 to 2/18/13.
4. Effective February 4, 2013 petitioner began a new job with increased income at the [REDACTED]. Gross income from this employment is \$2,040 per month.
5. The [REDACTED] submitted verification to the agency.
6. The agency determined that the new earned income plus child support made petitioner ineligible and notified her of this conclusion.
7. Petitioner filed an appeal.

DISCUSSION

BadgerCare Plus is an expansion of the Wisconsin Medical Assistance program meant to provide insurance for children under 19 and their parents. *BadgerCare Plus Eligibility Handbook (BCPEH)*, 1.1. There are two major BCP benefit plans. To be financially eligible for the BCP Standard Plan (full MA benefits), a family cannot have income greater than 200% of the federal poverty line (FPL). Wis. Stats. §49.471(8).

The key issue in dispute is the amount of child support to be counted toward petitioner's income. The Department provided documentation from the child support agency (see ex.#2) indicating that petitioner is paid \$275 every two weeks. The Department representative testified that the document reflects actual payments made to petitioner through the office from the father of the child. The funds reflect what is passed through the agency to the petitioner.

Petitioner argued that a temporary court order indicates a \$150 biweekly required payment to petitioner. Petitioner conceded that the child support agency figures appear to reflect some payments in excess of the court's order. Petitioner, however, did not provide any rebuttal to establish that the paid amounts were less than the county agency document reflected.

Income to petitioner must be counted. It is irrelevant what the ordered amount is. What is critical is the amount of dollars coming in to petitioner's household that are available to her for expenses. I am convinced that she received \$550 per month in child support during the pertinent time. The earned income and the child support together place petitioner at a monthly income of \$2590 which exceeds the income limit of \$2,585 which is 200%FPL. She is not eligible for BC+.

CONCLUSIONS OF LAW

The Department did not err as petitioner income exceeds the 200% FPL limit.

THEREFORE, it is

ORDERED

That this appeal 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 11th day of June, 2013

\sJohn P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Wayne J. Wiedenhoef, Acting Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

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

The preceding decision was sent to the following parties on June 11, 2013.

Waupaca County Department of Social Services
Division of Health Care Access and Accountability
EMCAPO
Mark@dalelawyers.com