



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/148071

PRELIMINARY RECITALS

Pursuant to a petition filed March 18, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA)/BadgerCare Plus (BCP), a hearing was held on April 23, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Department correctly discontinued the petitioner's adult BCP benefit effective April 1, 2013, due to excess income.

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: N. Yang, HSPC Sr.
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

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

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Prior to April 2013, the petitioner had an ongoing BCP case for herself, her minor child, and the child's father. On March 13, 2013, the Department issued written notice to the petitioner

advising that BCP for the adults would be discontinued effective April 1, 2013. The basis for discontinuance was excess household income.

3. The petitioner reported increased household income in early March 2013. The household's gross income currently exceeds 200% of the federal poverty level (FPL); that income is the child's father's earnings. No one pays out child support. The household adults are not self-employed, and no one receives SSI income.

DISCUSSION

Adults are not eligible for BCP if their household gross income exceeds 200% of the Federal Poverty Level. *BadgerCare Plus Eligibility Handbook (BCPEH)*, §16.1, available at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm>. For the petitioner's household size, that amount is currently \$3,255.

The Department used wage figures for the household that were correctly verified with paystubs. The petitioner thought that the income was too high and supplied two paystubs that were more recent. However, those paystubs showed even higher income, and did not help the petitioner's position.

The petitioner argues that the household has many bills, and inquired if they could be subtracted from gross income. The answer is that they cannot.

The *BCPEH* instructs the agency to use gross income in determining eligibility, and to only deduct a short list of types of "excluded income." *BCPEH*, §§ 16.1 & 16.4. The exclusions per policy include: child support payments paid out by a household member, AmeriCorps payments, SSI payments, and the business expenses of a self-employed person. *BCPEH*, §§ 16.3 & 16.4.

The statute does not supply much detail, but defines "family income" as "the total gross earned and unearned income received by all members of a family." Wis. Stat. § 49.471(1)(f). It then goes on to declare that a parent is not eligible if the family income exceeds 200 percent of the poverty line. *Id.*, (4)(b)4. There is an instruction that business expenses are to be subtracted from self-employment income. Wis. Stat. § 49.471(7)(a). Finally, the statute has these limited income disregards:

(7) SPECIAL INCOME PROVISIONS.

...

(c) When calculating an individual's family income, the department shall do all of the following:

1. Deduct from the individual's income, up to the amount of the individual's income, any amount the individual is obligated to pay for court-ordered child or family support or maintenance.
2. Disregard earnings of children under 18 years of age.
3. Determine separately the family incomes of caretaker relatives and the children for whom they are caring and not legally responsible.
4. Not include in the calculation any income of an individual receiving benefits under s. 49.77 or federal Title XVI [SSI].

Wis. Stat. § 49.471(7)(c). None of these types of income disregards are present in this case. There is no BCP state code section to provide further elaboration. Thus, the Department acted correctly.

CONCLUSIONS OF LAW

1. The Department correctly discontinued BCP for the household's adults effective April 1, 2013, due to excess income. In making this determination, the Department correctly declined to deduct the household's bills from its gross 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 22nd day of May, 2013

\sNancy J. Gagnon
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 22, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability