



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/150782

PRELIMINARY RECITALS

Pursuant to a petition filed July 19, 2013, under Wis. Stat., §49.45(5)(a), to review a decision by the Fond du Lac County Dept. of Social Services in regard to Medical Assistance (MA), a hearing was held on September 4, 2013, by telephone.

The issue for determination is whether the agency correctly budgeted petitioner's daughter's income in determining BadgerCare Plus (BC+) eligibility.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Deb Bohlman

Fond du Lac County Dept. of Social Services
87 Vincent Street
Fond du Lac, WI 54935-4595

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Fond du Lac County.
2. Petitioner receives BC+ for a household that includes his wife and two daughters (a third daughter is an adult and not included in the BC+ household). Petitioner had a review in June, 2013. After a number of problems getting the review completed, the case was reopened in late July with coverage back to July 1, 2013.

3. Petitioner's middle daughter turned age 18 in November, 2012. When the review was done in 2013 she was working at Wal-Mart. The county budgeted her earned income in determining household BC+ eligibility. The result was that petitioner and his wife were given a \$221 BC+ premium effective July 1, 2013.

DISCUSSION

Petitioner originally appealed the discontinuance of BC+ due to the review problems. By the time of the hearing that matter had been resolved, and the issue switched to the inclusion of petitioner's daughter's income in the budget that resulted in the adults having a premium.

Under BC+ rules the income limit for caretaker parents is 200% of the poverty level. BC+ Handbook, Appendix 16.1. That amount for a four-person household is \$3,925. Handbook, App. 50.1. If household income is above 133% of the poverty level, recipients must pay a monthly premium based upon income. Wis. Admin. Code, §DHS 103.085(1)(b); Handbook, App. 19.1. If a recipient does not pay the monthly payment before the month after the end of the benefit month, the recipient may be ineligible for the program for twelve months. §DHS 103.085(3); MA Handbook, App. 19.8.1.

133% of the poverty level for a four-person household is \$2,610.13. Handbook, App. 50.1. Prior to the addition of petitioner's daughter's income, the total household income was below the limit required to pay a premium. When her income was added, total household income rose above the limit.

Under BC+ rules, the earned income of children under age 18 is exempt. Handbook, App. 16.2, no. 6. When the child turns 18 the earned income must be counted. Under state BC+ rules the county had no choice but to count petitioner's daughter's income, and the Division of Hearings and Appeals does not have authority to make exceptions to the rule unless it clearly violates state or federal law. I can find no law that is violated. In general income of minor children is exempt, but there is nothing exempting income of adult children. It leads to a situation where an 18-year-old is eligible for BC+ as a child under Wisconsin law, but her income is counted because she is an adult. I must conclude, therefore, that the county correctly determined petitioner's BC+ eligibility after the review was completed.

CONCLUSIONS OF LAW

BC+ rules require the earned income of 18-year-old household members be counted in the total household income.

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 9th day of September, 2013

\sBrian 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 September 9, 2013.

Fond Du Lac County Department of Social Services
Division of Health Care Access and Accountability