



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/152241

PRELIMINARY RECITALS

Pursuant to a petition filed September 19, 2013, under Wis. Stat., §49.45(5)(a), to review a decision by the Outagamie County Dept. of Human Services in regard to Medical Assistance, a hearing was held on November 13, 2013, by telephone.

The issue for determination is the start date for re-figuring petitioner's income.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Barb Hardy

Outagamie County Dept. of Human Services
401 S. Elm Street
Appleton, WI 54911-5985

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Outagamie County.
2. Petitioner had a BadgerCare Plus (BC+) review in August, 2013. He presented a Schedule K-1 from his floral business showing his 2012 income to be \$15,341 (along with \$2,106 in rental income). The county worker entered those amounts along with petitioner's share of the business depreciation, divided by twelve and determined monthly income to be \$1,895.93.

3. By a notice dated August 30, 2013, the county informed petitioner that BC+ for him would end October 1, and that his children would be eligible for the BC+ Benchmark Plan with a \$195.06 premium.
4. Petitioner filed this appeal, and at the hearing he presented a new, amended Schedule K-1 that showed business income to be negative. The new schedule was the result of an amended business tax return filed after the owners questioned the original tax return. Petitioner's worker agreed to re-determine BC+ eligibility as of December 1, 2013 based upon the Department policy concerning change reporting.

DISCUSSION

The only issue remaining is the effective date of the change in petitioner's income. His worker agreed to make the changes based upon the amended 2012 business tax return.

A reported change is handled effective the next benefit month. BC+ Handbook, Appendix 25.7.2. In this case the county acted on a valid Schedule K-1 provided in August. The Amended Schedule K-1 provided in November is essentially a change reported by petitioner. The county thus should act on it effective the next possible month, which is December, 2013.

CONCLUSIONS OF LAW

The county should act on petitioner's reported income change for the next benefit month.

THEREFORE, it is

ORDERED

That the matter be remanded to the county with instructions to determine petitioner's BC+ eligibility effective December 1, 2013 using the Amended Schedule K-1 provided by petitioner at the hearing. The county worker shall do so within 10 days of this decision if she has not already taken the action.

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 14th day of November, 2013

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

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Madison, WI 53705-5400

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The preceding decision was sent to the following parties on November 14, 2013.

Outagamie County Department of Human Services
Division of Health Care Access and Accountability