



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/153061

PRELIMINARY RECITALS

Pursuant to a petition filed October 25, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services [MiLES] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on November 19, 2013.

The issue for determination is whether it was correct to discontinue petitioner's BadgerCare Plus MA ["BC+"] effective December 1, 2013 due to income.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Yia Xiong, Income Maintenance ["IM"] Specialist II
Pam Hazley, HSPC, Senior
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner has a group size of 4 persons.

3. Petitioner's Family Income is in excess of \$3,925 per month (petitioner receives unemployment in excess of \$1,200 per month and her husband earns wages of over \$3,000 per month).
4. Petitioner's BC+ was terminated effective December 1, 2013 because she is over the BC+ income limit.

DISCUSSION

In general, all available gross income is counted when determining BC+ eligibility. *BadgerCare + Eligibility Handbook* ["BC+EH"] 16.1. Certain types of income are disregarded. However, there is no evidence in the record of this matter that petitioner has any of the types of income that are disregarded. BC+EH 16.2.

With certain exceptions not applicable here, a person is eligible for BC+ only if the countable monthly family income does not exceed 200% of the Federal Poverty Level ["FPL"]. Wis. Stat. § 49.471(4) (2011-12); BC+EH 16.1. *Family income* means the total gross earned and unearned income received by all members of a family (except that earnings of children under 18 years of age are disregarded). Wis. Stat. §§ 49.471(1)(f) & 49.471(7)(c)2. (2011-12).

Petitioner does not dispute that she is over income for BC+. Her Family income is over \$4,000 per month. Her group size is 4 persons. The income limit for a group size of 4 persons is \$3,925.00. See , BC+EH 50.1.

Petitioner testified that she did not know she was on an MA extension¹ and did not know that the MA extension ended in August 2013. She testified she was not notified. However, even if petitioner was not notified about her extension, the fact remains that she is over the income limit for BC+ and, therefore, her BC+ was correctly terminated.

CONCLUSIONS OF LAW

For the reasons explained above, it was correct to discontinue petitioner's BC+ effective December 1, 2013 due to income.

NOW, THEREFORE, it is

ORDERED

that the petition for review herein be and the same is hereby DISMISSED.

¹ BC+ extensions are governed by law and policy. See, Wis. Stat. § 49.46(1)(co) (2011-12); Wis. Admin. Code § DHS 103.09(3) (December 2008); BC+EH Chapter 18.

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, Room 651, 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 10th day of December, 2013

\sSean P. Maloney
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 December 10, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability