



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCB/154621

PRELIMINARY RECITALS

Pursuant to a petition filed January 6, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Sauk County Department of Human Services in regard to Medical Assistance (MA)/BadgerCare Plus (BCP), a hearing was held on February 20, 2014, by telephone.

The issue for determination is whether the county agency correctly sought to discontinue the petitioner's BCP effective April 1, 2014, due to excess income.

There appeared at that time 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: Cheryl Brickl, ES Lead Worker
Sauk County Department of Human Services
505 Broadway, 4th Floor
PO Box 29
Baraboo, WI 53913

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sauk County.
2. The petitioner has an ongoing BCP case. The case was reviewed upon receipt of updated income tax records in December 2013.

Using a household monthly income figure of \$7,543.91 (her \$586.50 + his \$6,957.41) puts the household above 300% of the federal poverty level (FPL) for three persons, which is currently \$4,947.51 monthly. Through March 31, 2014, a household over 300% FPL pays a BCP premium that is 5% of income:

19.2 PREMIUM CALCULATIONS

19.2.1 Premium Calculations for Non-MAGI Households

Through March 31, 2014, for families with income over 300% of the FPL, if at least one member of the case is eligible for BC+ as a self-employed adult or as a grandfathered individual, the combined total of all family members' premiums will be either the total of all children's premiums, or 5% of the family's income, whichever amount is greater.

BCPEH, § 19.2.1. The \$374 premium established by the agency in December 2013 is five percent of the income. Therefore, the premium calculation was correct.

....

The BCP income rules will change effective April 1, 2014, with a lower income standard for adults. An eligible adult applicant cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. §§ 49.45(23)(a) and 49.471; 2013 Wisconsin Act 116, § 29, for effective date; *BCPEH*, § 16.1. The 100% FPL amount is \$972.50 monthly for a household of one, \$1,310.83 for a household of two persons, and **\$1,649.17** for three persons in 2014. *Id.*, § 50.1.

Beginning April 1, 2014, the Department will not add depreciation back in for the income calculation. In this case, that would result in gross income of \$6,181 monthly. From gross income, the Department is allowed to subtract only those income tax deductions listed on lines #16 - #19 of the federal 1040A tax return, subject to modifications listed at 42 C.F.R. § 435.603(e). Assuming that none of these adjusted gross income deductions are applicable here, the household's adults will be ineligible for BCP due to having income over the new state 100% FPL limit.

CONCLUSIONS OF LAW

1. The Department correctly added depreciation back in to the petitioner's income computation for months prior to April 2014.
2. The Department correctly calculated the petitioner's BCP premiums for December 2013 through March 2014.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and

why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 29th day of March, 2014

\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 March 31, 2014.

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