



FH  
[REDACTED]

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

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/154885

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed January 16, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Marathon County Department of Social Services in regard to Medical Assistance, a hearing was held on February 17, 2014, at Wausau, Wisconsin.

The issue for determination is whether the Department erred in its termination of petitioner BadgerCare+ eligibility effective 2/1/14.

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, Room 651  
Madison, Wisconsin 53703

By: Maikou Yang

Marathon County Department of Social Services  
400 E. Thomas Street  
Wausau, WI 54403

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Marathon County.
2. Petitioner lives with her daughter and the child's father. Petitioner has lived in the household with the father (who has income) since 2012 though this was not previously reported to the agency.

3. The household income is \$3,600.62 which exceeds 200% of the FPL for a three-person household.
4. The agency sent notice informing petitioner that her BC+ would terminate effective 2/1/14.
5. Petitioner appealed.

### DISCUSSION

Wisconsin's BadgerCare program, as set forth in *Wis. Stats.* §49.665, is intended to provide basic health care coverage for low-income families that do not have access to employer-subsidized health insurance. The Wisconsin Department of Health Services is charged with establishing the criteria for determining income under BadgerCare, *Wis. Stats.* §49.665(4) (a) 1. A family meets the financial eligibility requirements for BadgerCare on its initial application if its income does not exceed 185% of the poverty line, *Wis. Stats.* §49.665(4) (a) 1. **A family that is already participating in BadgerCare maintains its eligibility if its income does not exceed 200% of the poverty line, *Id.***

In the instant appeal, the petitioner's case is an appeal of the February 1, 2014 discontinuance of petitioner's BadgerCare benefits for herself, due to excess income. As explained above, the applicable income limit for a BadgerCare recipient is 200% of the poverty line. See *Medicaid Eligibility Handbook* § 39.5, "FPL Tables" and the *BadgerCare Plus Eligibility Handbook*, §50.1, "FPL Tables."

The agency argued that petitioner lives with her child and the child's father. The agency had previously been unaware that the father was living in the home. After calculating the household income, the agency determined that the household income falls above 200% of the federal poverty level.

Petitioner argued that she has a unique situation in that she is an alcoholic and she did not live with her daughter's father for the first year and a half of her life. She conceded that they live together now, however. She explained that she does not rely on him financially. Petitioner explained that she has medical issues and is on medication that she must continue to take. She explained that the medication would cost over 100 dollars per month if she had to pay out of pocket. She also explained that her child has speech delays and this means that she cannot work as much as she might otherwise be able to work. Petitioner only asked for a one-year "extension" of her MA coverage due to this hardship. Petitioner, notably, did not present any argument or evidence that she should be found eligible for BC+ under current rules or that the household income was incorrectly determined by the agency.

I must apply the rules of the program. I do not have the authority to make decisions based on equity or discretion in consideration of a specific person's medical needs. Similarly, I have no authority to grant extensions of eligibility where eligibility does not exist under applicable program rules.

Petitioner would be wise to contact the agency to determine whether she is eligible for any other MA program.

### CONCLUSIONS OF LAW

The Department did not err in terminating petitioner's BC+.

**THEREFORE, it is**

**ORDERED**

That this appeal 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 1st day of April, 2014

---

\sJohn P. Tedesco  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on April 1, 2014.

Marathon County Department of Social Services  
Division of Health Care Access and Accountability