



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/155068

PRELIMINARY RECITALS

Pursuant to a petition filed January 22, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Brown County Human Services in regard to Medical Assistance (MA)/BadgerCare Plus (BCP), a hearing was held on March 6, 2014, by telephone.

The issue for determination is whether the agency correctly discontinued the petitioner's BCP benefits effective February 1, 2014.

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 Streich, ES Supr.
Brown County Human Services
Economic Support-2nd Floor
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.

2. Prior to February 2014, the petitioner had an ongoing BCP case as a household that included herself and a granddaughter, but not her husband, [REDACTED] [REDACTED]. The petitioner claimed that [REDACTED] was not living with her.
3. [REDACTED] has earned income from a job at [REDACTED]. When [REDACTED]'s earnings are added to the petitioner's Social Security income of \$786 monthly, the total exceeds the adult BCP income limit for a household of three persons.
4. The agency began investigating the petitioner's household composition in October 2013, when it realized that the petitioner was incorrectly using the FoodShare card of an incarcerated son for herself. On October 17, 2013, the petitioner admitted to a police officer/investigator that she resided with her husband of approximately 25 years, [REDACTED] [REDACTED].
5. [REDACTED] [REDACTED] lived with the petitioner at her [REDACTED] [REDACTED], Green Bay, address from at least October 2013 through February 1, 2014.
6. On January 13, 2014, the Department issued written notice to the petitioner advising that adult BCP would be discontinued effective February 1, 2014. The basis for discontinuance was that Mr. [REDACTED] had been added to the petitioner's case, and the household was now over the income limit for adult BCP. BCP coverage remained open for the granddaughter, as different income rules/limits apply to children.

DISCUSSION

BadgerCare Plus is an expansion of the Wisconsin Medical Assistance program meant to provide insurance for children under 19 and their parents/caretakers. *BadgerCare Plus Eligibility Handbook (BCPEH)*, 1.1, online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm>. For a non-self-employed adult to be eligible, the family can never have income greater than 200% of the federal poverty line (FPL). BCP is available to children only in households with income above 200% of the poverty line, and to self-employed parents/caretakers.

In this case, the agency asserts that the petitioner's husband has been living with her for some time, leading up to and including February 1, 2014. She falsely reported him as being out of her household. The BCP statute requires the recipient to report accurate household composition and changes that might affect eligibility. Wis. Stat. §49.471(6)(h). See in accord, *BCPEH*, §27.2. Spouses who reside together must be in the same BCP household. Wis. Stat. § 49.471(1),(7). The combination of the husband's income plus the petitioner's income, caused her income to be above 200% of the federal poverty level (FPL). When her income exceeded 200% FPL, she was not eligible for benefits. Wis. Stat. §49.471(4)(a).

The petitioner offered only her unreliable testimony that her husband did not live with her. She is a person who, after all, was caught engaging in FoodShare fraud by using a card that did not belong to her. Credible proof of an alternative address for [REDACTED] was not offered. [REDACTED]'s employment records at [REDACTED] list the petitioner's address. The agency had given the couple an opportunity to prove that [REDACTED] lived at a different address. His response was to provide the agency with a bogus lease. Thus, the Department was correct in concluding that they live together, that his full-time income puts them over the 200% BCP limit (dropped to 100% effective 4/1/2014), and that the adult BCP case should be closed.

CONCLUSIONS OF LAW

1. The Department correctly concluded that the petitioner's husband resided with her as of February 1, 2014.

2. The Department correctly discontinued the petitioner's adult BCP, due to excess income, effective February 1, 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 18th day of April, 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 April 18, 2014.

Brown County Human Services
Division of Health Care Access and Accountability