



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/155617

PRELIMINARY RECITALS

Pursuant to a petition filed February 20, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on March 18, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly discontinued the Petitioner's husband's BC+ benefits effective March 1, 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Pang Xiong
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Milwaukee County.
2. Petitioner's household includes herself and her husband. Petitioner is disabled.

3. Petitioner's household has unearned income of \$2,660/month. This includes Petitioner's husband's unearned income of \$1,480/month in unemployment compensation benefits and Petitioner's unearned income of \$1,180/month from SSDI.
4. On February 17, 2014, the agency issued a Notice of Decision informing the Petitioner that effective March 1, 2014, BC+ benefits would end for Petitioner and her husband because their income exceeds the program limit.
5. On February 24, 2014, the agency issued a Notice of Decision informing the Petitioner that she is eligible for MA benefits for the period of March 1, 2014 – August 31, 2014. The notice also informs the Petitioner that her husband is not eligible for MA effective March 1, 2014 due to income exceeding the program limit or BC+ effective April 1, 2014 due to income exceeding the program limit.

### **DISCUSSION**

BadgerCare Plus is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. The program has financial and nonfinancial eligibility standards. The non-financial eligibility standards were broadened effective April 1, 2014, to include adults who do not have minor children in their home. Wis. Stat. § 49.45(23); 2013 Wisconsin Act 116, § 29, for effective date; BadgerCare Plus Eligibility Handbook (BCPEH), § 2.1, online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> (viewed in March 2014). The Petitioner meets the nonfinancial eligibility tests for the program. She is disabled and has a child under age 19 in the home. The Petitioner's husband also meets the nonfinancial eligibility tests.

Prior to April 1, 2014, the financial eligibility test required an individual to have an adjusted gross income under 200% of the federal poverty level for the household's size. For a household of two, 200% of the FPL was \$2,621.67/month. The Petitioner's household income is \$2,660/month.

Effective April 1, 2014, an eligible applicant cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); BCPEH, § 16.1. The 100% FPL amount is \$1,310.83 for a household of two persons in 2014. Id., § 50.1.

The Petitioner's household income exceeded the program limits when the Petitioner's husband starting receiving unemployment compensation benefits in or about February, 2014, affecting the Petitioner's husband's eligibility beginning March 1, 2014.

Based on the regulations, I must affirm the agency's action of discontinuing the Petitioner's husband's health benefits effective March 1, 2014. As the agency noted at the hearing, the Petitioner remains eligible based on her disability. The Petitioner's husband may wish to apply for insurance through the Marketplace.

### **CONCLUSIONS OF LAW**

The agency properly discontinued the Petitioner's husband's health benefits effective March 1, 2014.

**THEREFORE, it is**

**ORDERED**

That the Petitioner's appeal is dismissed.

## **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 Milwaukee,  
Wisconsin, this 30th day of April, 2014

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\sDebra Bursinger  
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 30, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability