



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/156269

PRELIMINARY RECITALS

Pursuant to a petition filed March 19, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Kenosha County Human Service Department in regard to Medical Assistance (MA)/BadgerCare Plus (BCP), a hearing was held on April 2, 2014, by telephone. The hearing record was held open for 10 days for possible submission of additional earnings verification by the petitioner; nothing was received.

The issue for determination is whether the Department correctly denied the petitioner's BCP application 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: Karen Mayer, fair hearing coordr.
Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

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

2. In February 2014, the petitioner filed an application for the BCP program as a household of one person, seeking eligibility as a childless adult effective April 1, 2014.
3. Because the petitioner has earned income, the Department requested income verification for the prior 30 days. The petitioner filed a timely response to that request.
4. On March 10, 2014, the Department issued written notice to the petitioner, advising that she was not eligible for BCP, due to excess income. *See*, Exhibit 3. The petitioner appealed.
5. The adjusted gross income relied upon by the Department in its determination was \$1,066.50 in wages for February from the [REDACTED]. The monthly gross income limit for BCP is now \$972.50.
6. Upon receiving her BCP denial, the petitioner successfully obtained health insurance through the federal Marketplace. However, she will have to pay a \$88.64 monthly premium and satisfy a deductible as a condition of that coverage. She would have no deductible under BCP.

DISCUSSION

BadgerCare Plus is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. The program's nonfinancial 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.

The petitioner must also pass an income test. 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 \$972.50 monthly for a household of one, and \$1,310.83 for a household of two persons in 2014. *Id.*, § 50.1.

The Department has calculated a gross income amount for the petitioner of \$1,066.50, based on the average of two submitted paystubs. 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). The petitioner did not identify any of these adjusted gross income deductions as being applicable here.

The petitioner's disagreement with the Department's income calculation pertains to the gross income calculation. She asserts that her income is variable, and that February 2014 was an atypically high earnings month. The hearing record was held open to give her an opportunity to supply this Judge with pay records for a period of time longer than 30 days, to see if it would average out under the 100% limit. Nothing was received, so the county agency's decision stands.

CONCLUSIONS OF LAW

1. The petitioner's household income exceeds the relevant limit for BCP eligibility.
2. The Department correctly denied the petitioner's BCP application.

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 11th day of June, 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 June 11, 2014.

Kenosha County Human Service Department
Division of Health Care Access and Accountability