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[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/156964

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**PRELIMINARY RECITALS**

Pursuant to a petition filed April 16, 2014, under Wis. Stat., §49.45(5)(a), to review a decision by the Rock County Dept. of Social Services to discontinue Medical Assistance (MA), a hearing was held on July 23, 2014, by telephone. Hearings set for May 22 and June 25, 2014 were rescheduled at the petitioner's request.

The issue for determination is whether the county correctly closed petitioner's BadgerCare Plus (BC+) MA when state law changed concerning income limits.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Michelle Walworth  
Rock County Dept. of Social Services  
P.O. Box 1649  
Janesville, WI 53546

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County.
2. Petitioner resides with her 15-year-old son. Prior to April 1, 2014, both of them received BC+. Monthly household income includes petitioner's social security of \$1,637 and her son's social security of \$871.

3. On March 18, 2014, the county sent petitioner a notice telling her that BC+ for only her was ending April 1, 2014 because income was over the limit. Effective April 1, 2014, state law changed to make the BC+ limit for adults 100% of the federal poverty level (FPL); prior to that date the limit was 200% of the FPL. The notice was sent to petitioner's regular mailing address, but petitioner either did not receive it or did not see it.
4. On March 24, 2014, the county sent petitioner a notice telling her that as of May 1, 2014 BC+ was denied.
5. Because petitioner thought that she had BC+ until May 1 she had some medical procedures done in early April. She later was told that her BC+ coverage ended April 1, and she contacted the county. The worker sent her a copy of the March 18 letter on April 11.
6. On April 1, 2014 petitioner filed an application for insurance under the federal marketplace. Because she is disabled and receives Medicare the application was sent to the Rock County agency to process for elderly/disabled MA.
7. On April 23, 2014 the county sent petitioner a request for verification of assets with a due date of May 2, 2014. Petitioner did not respond, and on May 5, 2014 the agency sent another notice denying BC+ due to income, and denying regular Medicaid because of income and failure to provide verification.

### DISCUSSION

Prior to April 1, 2014, caretaker adults were eligible for the BC+ program if household income was below 200% of the FPL. That amount is \$2,621.67, and petitioner's household income is \$2,508. State law changed effective April 1, 2014. As of that date all adults are eligible for BC+ but with the income limit reduced to 100% of the FPL, which, for a two-person household, is \$1,310.83. See Wis. Stat., §49.471(4)(a)4.b for the new law, and the MA Handbook, Appendix 50.1 for the limit. Thus state law required the termination of petitioner's BC+ effective April 1, 2014.

The county sent petitioner a notice on March 18 informing her of the change, but for unknown reasons petitioner did not see the notice. Therefore when the county sent a second notice later in March, 2014 telling her that BC+ was denied for May, she thought that she remained eligible in April.

I cannot order BC+ reopened in April. The county took all appropriate actions, and it is not the county's fault that petitioner did not see the March 18 notice after it was sent.

The county also correctly closed the regular MA application because petitioner did not respond to the verification request. An MA recipient is required to verify information that can affect eligibility. Wis. Admin. Code, §DHS 102.03. If the household fails to verify required information by the time limit, the agency may deny the benefits. Wis. Admin. Code, §DHS 102.03(1). The agency should assist the applicant if she requests assistance. MA Handbook, App. 20.5.

The Handbook, App. 20.8.3, provides as follows:

Deny or reduce benefits when all of the following are true:

1. The member has the power to produce the verification.
2. The time allowed to produce the verification has passed.
3. The member has been given adequate notice of the verification required.
4. You need the requested verification to determine current eligibility.

Petitioner was confused by all that occurred in March and April, but the fact is that she did not respond to the verification request, and thus the agency action was correct.

Fortunately there is an easy remedy to the problem, and petitioner already has started the process. Petitioner filed a new MA application in July, 2014. Since the application can be backdated three months, it can go back to April 1, 2014. As long as petitioner completes the application process and provides all verification, the county can determine eligibility retroactively. Petitioner might have to meet a spend-down to gain eligibility; the spend-down process can be explained by the county worker.

### **CONCLUSIONS OF LAW**

1. The county correctly closed petitioner's BC+ eligibility April 1, 2014 because income was over the new BC+ limit.
2. The county correctly closed petitioner's application for elderly/disabled MA because she did not respond to a verification request by the time limit.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and the same is hereby 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 25th day of July, 2014

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\sBrian C. Schneider  
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 July 25, 2014.

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