



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/157264

PRELIMINARY RECITALS

Pursuant to a petition filed April 28, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the La Crosse County Department of Human Services in regard to Medical Assistance (MA), a hearing was held on June 11, 2014, by telephone.

The issue for determination is whether the Department correctly discontinued the petitioner's wife's BCP coverage effective May 1, 2014, 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: Tom Miller, ES Supr.-WREA

La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]), age 71, is married and is a resident of Trempealeau County.

2. In November 2013, the petitioner filed a federal Marketplace application for MA for his wife. The Marketplace forwarded the file to the State of Wisconsin for further processing (no paper documentation of a Marketplace eligibility decision is in the record). Because the spouse initially reported no income in her application, Wisconsin found her to be eligible for MA/BadgerCare Plus as a childless adult effective April 1, 2014. *See*, Notice dated February 24, 2014.
3. The Department subsequently verified that the household of two persons has the following monthly income: the petitioner's \$1,614.90 Social Security, \$10.08 from Thrivent Financial, and \$25.00 from MAPP for the petitioner. These amounts total \$1,649.98 .
4. On April 14, 2014, the Department issued written notice to the petitioner, advising that his wife would be discontinued from MA/BCP, due to excess income, effective May 1, 2014. The petitioner appealed, and aid was ordered continued pending appeal.
5. The adjusted gross income used by the Department is correct. The income limit for adult MA/BCP is \$1,310.83 monthly (2-person household).
6. The petitioner's wife has also filed a MAPP application, alleging that she is disabled. This Decision does not decide or affect that issue.

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 June 2014). The petitioner's wife meets the nonfinancial eligibility tests for the program.

The petitioner's household 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 correctly calculated a gross income amount for the two-person household of \$1,649.98. 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. Thus, the Department's computation was correct, and MA/BCP was correctly ended for the petitioner's wife effective May 1, 2014.

CONCLUSIONS OF LAW

1. The Department correctly discontinued MA/BCP for the petitioner's wife effective May 1, 2014, due to excess income.

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 30th 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 30, 2014.

La Crosse County Department of Human Services
Division of Health Care Access and Accountability