



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

REHEARING  
DECISION

BCS/157419

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 03, 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, a telephonic rehearing was held on August 11, 2014, at La Crosse, Wisconsin. The petitioner did not appear for her June 25, 2014 hearing, and her appeal was dismissed as abandoned. The petitioner requested a rehearing, and that rehearing was granted due to good cause.

The issue for determination is whether the county agency correctly discontinued the petitioner's BadgerCare Plus eligibility effective May 1, 2014 due to household income above the 100% MAGI income limit of \$1,310.83 for a group of two.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

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Respondent:

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

By: Tom Miller, ES Supervisor

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

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of La Crosse County who resides with her minor daughter.
2. The petitioner's household received BadgerCare (BC) Plus benefits.
3. Petitioner is employed at Gunderson Lutheran, earns \$13.98 per hour, and has a monthly earned income of \$1,372.08 based upon pay stubs during February and March, 2014. See Exhibits 3 and 4.
4. The county agency sent a March 24, 2014 Notice of Decision to the petitioner stating that effective May 1, 2014 her BadgerCare (BC) Plus eligibility would discontinue due to household income above the 100% FPL of \$1,310.83 for a household of two per BadgerCare Plus Eligibility Handbook, 16.1.1, "Income Limits. See Exhibit 1.

**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 petitioner did not dispute her monthly earned income calculated by the county agency. 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 was unable to identify any of these adjusted gross income deductions as being applicable in this case. The petitioner explained that she and her daughter very much need the continued health care coverage. However, the petitioner was unable to refute that her countable household income does exceed 100% FPL for a household of two persons. Accordingly, based upon the above, I must conclude that the county agency correctly discontinued the petitioner's BadgerCare Plus eligibility effective May 1, 2014, due to household's income above the 100% MAGI income limit of \$1,310.83 for a group of two.

**CONCLUSIONS OF LAW**

1. The petitioner's household income does exceed the relevant 100% MAGI FPL limit for BCP eligibility for a household of two.
2. The county agency correctly discontinued the petitioner's BadgerCare Plus eligibility effective May 1, 2014 due to household's income above the 100% MAGI income limit of \$1,310.83 for a group of two.

**THEREFORE, it is**

**ORDERED**

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 8th day of September, 2014

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\sGary M. Wolkstein  
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 September 8, 2014.

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