



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/157475

PRELIMINARY RECITALS

Pursuant to a petition filed May 06, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Dane County Department of Human Services in regard to Medical Assistance, a hearing was held on June 04, 2014, at Madison, Wisconsin.

The issue for determination is whether the county agency correctly discontinued the petitioner's BadgerCare (BC) Plus eligibility effective May 1, 2014 due to household income above the BC 100% MAGI income limit of \$972.50 for a BC group of one.

There appeared at that time and place 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: Tari Donnelly, ESS
Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County who received BadgerCare (BC) Plus benefits for a household of one.
2. The petitioner receives monthly Social Security of \$820.

3. Petitioner receives monthly self-employment income of \$850 from his tenant for the rent of the upstairs of his home.
4. The petitioner has total countable income of \$1,670.00.
5. During a March 12, 2014 review, a county agency ESS worker discovered that the county agency erroneously granted twice a shelter deduction in calculating the petitioner's BC income eligibility. The first shelter deduction was approved as an expense on his self-employment income report form (SEIRF), and also incorrectly approved a shelter deduction for petitioner's mortgage on his home. See Exhibit 1.
6. The county agency's BC budget screens for March and April, 2014 confirmed the calculation of petitioner's income above the BC income eligibility limit without a second and incorrect shelter deduction.
7. On March 31, 2014, the county agency sent a Notice of Decision to the petitioner stating that effective May 1, 2014 his BadgerCare Plus eligibility would discontinue due to household income of \$1,670.00 which is above the 100% FPL of \$972.50 for a household of one per BadgerCare Plus Eligibility Handbook, 16.1.1. See Exhibit 3.

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.

During the June 4, 2014 hearing, the county agency representative provided petitioner a detailed explanation regarding the calculation of the petitioner's household income of \$1,670.00. See Findings of Fact #2 - #4 above. ESS Donnelly explained and documented that due to the agency's error to grant a double shelter deduction to the petitioner, his BC household income increased once that error was corrected. See Finding of Fact #5 and #6 above. The petitioner was unable to refute the county's case that it had correctly calculated the petitioner's household income and shelter deduction for a BC household of one per BadgerCare Plus Eligibility Handbook, 16.1.1. In reviewing the county agency's calculation of petitioner's BC benefits based upon BC policy and law, I find no error. Accordingly, for the above reasons, I must conclude that the county agency correctly discontinued the petitioner's BadgerCare Plus eligibility effective May 1, 2014 due to household income above the BC 100% MAGI income limit of \$972.50 for a BC group of one.

CONCLUSIONS OF LAW

The county agency correctly discontinued the petitioner's BadgerCare Plus eligibility effective May 1, 2014 due to household income above the BC 100% MAGI income limit of \$972.50 for a BC group of one.

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 4th day of August, 2014

\sGary M. Wolkstein
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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on August 4, 2014.

Dane County Department of Human Services
Division of Health Care Access and Accountability