



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/157731

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 15, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Grant County Department of Social Services in regard to Medical Assistance, a telephonic hearing was held on July 08, 2014, at Lancaster, Wisconsin.

The issue for determination is whether the county agency correctly denied the petitioner's March, 2014 BadgerCare Plus application 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]

Respondent:

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

By: Michelle Fishnick, ESS  
Grant County Department of Social Services  
Hwys 35 and 61 South  
PO Box 447  
Lancaster, WI 53813

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Grant County who resides with her husband,  
[REDACTED], [REDACTED], [REDACTED]

2. [REDACTED] [REDACTED]'s daughter resides with petitioner and her husband less than 40% of the time and is thus not included in petitioner's BC household.
3. The petitioner filed an online application with the Federal Health Insurance Marketplace (Affordable Care Act), and that application was received by the county agency on March 3, 2014. On March 11, 2014, the county agency processed petitioner's BadgerCare (BC) application.
4. The petitioner and her husband are a non-elderly, childless couple for BC income eligibility purposes.
5. Petitioner's husband receives monthly Social Security Disability Income (SSDI) of \$1,498.50.
6. The petitioner receives a monthly pension of \$409.49.
7. The household's total monthly income is \$1,907.49.
8. The county agency sent a March 12, 2014 Notice of Decision to the petitioner stating that her BadgerCare (BC) Plus application was denied 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.
9. [REDACTED] [REDACTED] [REDACTED] remains eligible for the Medicaid Purchase Plan (MAPP) benefits.

### 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 correctly counted the unearned income from her husband's SSDI monthly benefits and petitioner's monthly pension. The petitioner did not dispute that SSDI amount or her monthly pension. 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 because her household only has her husband's unearned SSDI income and petitioner's pension. 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 denied the petitioner's March, 2014 BadgerCare Plus application due to household 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 denied the petitioner's March, 2014 BadgerCare Plus application due to household 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 12th day of August, 2014

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\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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on August 12, 2014.

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