



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/157987

PRELIMINARY RECITALS

Pursuant to a petition filed May 28, 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 (MA)/BadgerCare Plus (BCP), a hearing was held on July 23, 2014, by telephone. A hearing set for June 18, 2014, was rescheduled at the petitioner’s request.

The issue for determination is whether the Department correctly discontinued the petitioner’s BCP effective June 1, 2014.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



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Respondent:

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

By: Rena Sedlmayr, ES Spec.
Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is an adult resident of Dane County.

2. On March 13, 2014, the petitioner applied for BCP as a household of one person. She correctly reported no income in March 2014, and submitted verification on March 26, 2014. Her BCP certification began effective April 1, 2014. In April 2014, the petitioner began receiving Unemployment Compensation (UC) of \$370 weekly, or \$1,480.00 monthly.
3. On May 12, 2014, the Department issued written notice to the petitioner advising that her BCP would be discontinued effective June 1, 2014. *See*, Exhibit 1. The petitioner timely appealed, and aid was continued pending appeal.

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. The petitioner meets the *nonfinancial* eligibility tests for the program. Wis. Stat. § 49.45(23); *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1, online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> (viewed in July 2014).

The petitioner must also pass an income test. An eligible applicant/recipient cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). *BCPEH*, § 16.1. The 100% FPL amount is \$972.50 monthly for a household of one.

UC is counted as income for BadgerCare Plus. *BCPEH*, § 16.5. The Department has calculated a gross income amount for the petitioner of \$1,480.00 (\$370 x 4), based on the UC verification. From gross income, the Department is allowed to subtract only those income tax deductions listed on lines #23-35 of the federal 1040 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.

The petitioner does not deny that she receives the UC mentioned above. Rather, she explained that she is struggling to make ends meet, and needs pain medication in the aftermath of her recent surgery. Based on the hearing record, I found that the petitioner's adjusted gross income exceeds the 100% FPL limit for one person, and that closure of her BCP case was correct.

CONCLUSIONS OF LAW

1. The petitioner's income exceeds the relevant limit for BCP eligibility.
2. The Department correctly discontinued the petitioner's BCP coverage.

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 1st day of August, 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 August 1, 2014.

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