



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
Redact
[Redacted]

DECISION

BCS/158567

PRELIMINARY RECITALS

Pursuant to a petition filed June 26, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Fond Du Lac County Department of Social Services in regard to Medical Assistance, a hearing was held on November 04, 2014, at Fond Du Lac, Wisconsin. At the request of petitioner, hearings set for August 6, 2014, September 4, 2014, and October 7, 2014 were rescheduled.

The issue for determination is whether the county agency correctly discontinued the petitioner's BadgerCare (BC) Plus benefits effective July 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]
Redact
[Redacted]

Respondent:

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

By: [Redacted], ESS
Fond Du Lac County Department of Social Services
50 N Portland St
Fond Du Lac, WI 54935

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Fond Du Lac County who resides in a household of three (petitioner, his wife, and his child).

2. The petitioner received BadgerCare (BC) Plus benefits for a household of two through June, 2014. No BC benefits were requested for petitioner's child.
3. During his annual review application, petitioner reported new employment, and provided verification of his new employment and income from his employer, [Redact].
4. Petitioner is employed as a [Redact] at [Redact] for 40 hours per week at \$11.50 per hour and five hours per week of overtime at \$17.25 per hour. Petitioner's monthly earned income is \$1,892.00 for BC Plus income eligibility purposes.
5. The county agency sent a June 23, 2014 Notice of Decision to the petitioner stating that effective July 1, 2014 his BadgerCare (BC) Plus eligibility would discontinue due to household income of \$1,892.00 which is above the 100% FPL of \$1,310.83 for a household of two per BadgerCare Plus Eligibility Handbook, 16.1.1, "Income Limits.

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 November 4, 2014 hearing, ESS [Redact], provided petitioner a detailed explanation regarding the calculation of his earned income of \$1,892, due to his new employment income at [Redact] to be above the BC income limit of \$1,310.83. During that hearing, after hearing the agency's case, petitioner was unable to refute the county agency's case that it had correctly calculated the petitioner's income to be above the BC income eligibility limit for two adults. The petitioner did not dispute his 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 was unable to refute that his countable household income for himself and his wife did exceed 100% FPL as of July, 2014 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 July 1, 2014, due to household's income above the 100% MAGI income limit of \$1,310.83 for a group of two (petitioner and his wife).

CONCLUSIONS OF LAW

The county agency correctly discontinued the petitioner's BadgerCare Plus eligibility effective July 1, 2014, due to household's income above the 100% MAGI income limit of \$1,310.83 for a group of two (petitioner and his wife).

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 15th day of December, 2014

\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 December 15, 2014.

Fond Du Lac County Department of Social Services
Division of Health Care Access and Accountability