



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/159319

**PRELIMINARY RECITALS**

Pursuant to a petition filed July 25, 2014, under Wis. Stat., §49.45(5)(a), to review a decision by the Dane County Dept. of Human Services to discontinue Medical Assistance (MA), a hearing was held on August 27, 2014, by telephone.

The issue for determination is whether the county correctly determined that petitioner’s income was over the BadgerCare Plus (BC+) MA limit.

**PARTIES IN INTEREST:**

Petitioner:



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Respondent:

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

By: Zora Bianca  
Dane County Dept. of Human Services  
1819 Aberg Avenue  
Madison, WI 53704-6343

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Dane County.
2. Until the county action petitioner received BC+ for herself and her daughter.
3. The county conducted a review in June, 2014. It obtained verification of petitioner’s income, which was determined to be \$1,662 per month.

4. By a notice dated July 22, 2014, the county informed petitioner that BC+ would end for her on August 1, 2014 because income was over the limit. BC+ for her daughter was unaffected.

### DISCUSSION

Prior to April 1, 2014, the income limit for BC+ was 200% of the FPL. State law changed effective April 1, 2014. As of that date the limit for caretaker parents was reduced to 100% of the Federal Poverty Level, which, for a two-person household, is \$1,310.83. See Wis. Stat., §49.471(4)(a)4.b for the new law, and the BC+ Handbook, Appendix 50.1 for the limit. Petitioner's counted monthly income, based upon the verification received from her employer, totaled \$1,662.14. Thus petitioner lost BC+ eligibility and has to go to the new health care market place for insurance.

Petitioner testified that her income fluctuates, and that tried the market place but it was too expensive. The problem is that the Division of Hearings and Appeals has absolutely no authority to order continued BC+ for a person due to hardship. The limit is 100% of poverty, and if income is above the limit the person is ineligible for BC+. There is nothing in the statute or policy that would give me authority to continue petitioner's eligibility. However, if petitioner does have a decrease in income to below \$1,310 per month, she can request that the county review her BC+ eligibility again.

### CONCLUSIONS OF LAW

The agency correctly closed petitioner's BC+ because her income was over the limit following the change in state law that occurred April 1, 2014.

**THEREFORE, it is**

**ORDERED**

That 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 29th day of August, 2014

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\sBrian C. Schneider  
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 29, 2014.

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