



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/159735

PRELIMINARY RECITALS

Pursuant to a petition filed August 06, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the La Crosse County Department of Human Services in regard to Medical Assistance, a hearing was held on September 08, 2014, at Sparta, Wisconsin.

The issue for determination is whether the agency erred in its denial of BC for [REDACTED].

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: Bob Uebele

La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Monroe County.
2. [REDACTED] is the father of two children with petitioner. He lives in the home with the children and petitioner.
3. [REDACTED]'s BC+ eligibility ended on 5/31/14 because a renewal was not completed in time.

4. A renewal was completed on 6/9/14.
5. ██████ files his taxes as an individual single person.
6. ██████'s wages of \$1,523 exceed the FPL for a single person.
7. ██████'s enrollment was denied
8. Petitioner appealed.

DISCUSSION

BadgerCare Plus is Wisconsin's medical assistance program for those who are not elderly or disabled. Wis. Stat. § 49.471. Since April 1, 2014, BadgerCare Plus usually allows adults to be eligible only if their income is below 100% of the federal poverty level; for children, the limit is 300% of the federal poverty level. Wis. Stat. § 49.471(4)(a).

At the time of renewal, the agency correctly applied the new MAGI eligibility rules to the group. BCP Handbook § 2.3.2.1:

Forming the Test Group using MAGI Tax Filing Rules

All MAGI groups are based on a "target" individual. Each person who can become eligible for BC+ on the application will be a target during the eligibility determination for a case.

Thereafter, the Handbook sets forth the relationships to be analyzed in determining eligibility under the MAGI rules:

2.3.2.1

Tax Dependents

In general, a tax dependent's household will be the same as his or her tax filer's household, even if the tax dependent is also a tax filer.

However, if any of the following situations apply, then the tax dependent's eligibility is based on MAGI relationship rules:

1. *The individual is being claimed as a dependent by a parent outside of the home (a non-custodial parent is defined as a parent who is living apart from the parent applying for benefits for the child),*
2. *The individual is being claimed as a dependent by someone who is not their parent; or*
3. **The individual lives with both parents and his or her parents are not married filing jointly.**

2.3.2.2 Forming the Test Group Using MAGI Relationship Rules

Individuals who meet one of the exceptions to the MAGI tax filing rules or who are not tax filers or tax dependents will have their eligibility determined using MAGI relationship rules.

Under relationship rules, only include individuals who are living in the home with the target. If the target individual is under 19, then the target's group includes the

target’s parents, the target’s spouse, the target’s siblings under age 19 (including step and half siblings), and the target’s children.

(Emphasis added). The father should have been found eligible under this exception because the children are targets and he lives in the home..

CONCLUSIONS OF LAW

The agency incorrectly applied the MAGI rules to the group.

THEREFORE, it is ORDERED

The matter is remanded to the agency with instruction to redetermine [REDACTED]’s eligibility consistent with this decision and the Handbook guidance set forth in this Decision. This must be completed within 10 days.

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 23rd day of October, 2014

\sJohn P. Tedesco
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 October 23, 2014.

La Crosse County Department of Human Services
Division of Health Care Access and Accountability