



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/159955

PRELIMINARY RECITALS

Pursuant to a petition filed August 19, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Marathon County Department of Social Services in regard to Medical Assistance/BadgerCare Plus (BCP), a hearing was held on September 3, 2014, by telephone.

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

There appeared at that time 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: Ms. Maikou Yang, Lead ES Spec.
Marathon County Department of Social Services
400 E. Thomas Street
Wausau, WI 54403

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a non-disabled adult resident of Marathon County.
2. From April through August, 2014, the petitioner received BCP coverage as a "childless adult."
3. In August, 2014, the Department learned that the petitioner had begun receiving Unemployment Compensation (UC), in the gross amount of \$1,212 monthly. On August 11, 2014, the

Department issued written notice to the petitioner, advising that he would cease to be eligible for BCP effective August 31, 2014. The notice also advised that he was not eligible due to excess income. The petitioner appealed.

4. The gross income relied upon by the Department in its determination was \$1,212 in UC. From this amount, the agency subtracted the petitioner's \$150 monthly student loan interest payment. The result was adjusted gross income of \$1,062.00.
5. The petitioner's household consists of himself only. His adjusted gross income exceeds 100% of the Federal Poverty Level for one person.

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 September 2014). The petitioner meets the nonfinancial eligibility tests for the program.

The petitioner must also pass an income test. The income limit for adults went lower effective April 1, 2014: 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 calculated gross income for this household of \$1,212. From gross income the Department is allowed to subtract only those income tax deductions listed on lines #23 through #35 of the federal 1040 tax return, subject to modifications listed at 42 C.F.R. § 435.603(e). The only applicable deduction identified by the petitioner is his college loan repayment liability (interest portion) of \$150 monthly. That deduction is not enough to pull the household income under the \$972.50 limit for one person.

The petitioner articulately explained that he has living expenses that make it impossible for him to afford a federal Marketplace insurance policy, even with its premium subsidy. However, I cannot deviate from the legal requirements given above. Thus, the Department's discontinuance of BCP for the petitioner was correct and is sustained here.

Tax Penalty Hardship Exemption

The petitioner also complained at hearing that he will be subject to a tax penalty (a/k/a "shared responsibility payment") for not having health insurance for at least nine months of the year. I have conferred with an attorney at ABC for Health. She noted that there are 14 federal "hardship exemptions" that excuse a person from the tax penalty. One of the 14 exemptions is for a person "deemed ineligible for Medicaid/BCP because his state did not expand Medicaid" to 138% FPL. Wisconsin did not expand Medicaid to 138% FPL. The petitioner may obtain a federal hardship exemption form from <http://marketplace.cms.gov/applications-and-forms/affordability-ffm-exemption.pdf>.

The completed form should be mailed to: Health Insurance Marketplace-Exemption Processing, 465 Industrial Blvd., London, KY 40741 (as of 9/3/14). It will be necessary to attach a copy of the BCP discontinuance notice (here, 8/11/14). The petitioner should file this form at this time, rather than waiting to the end of the year.

CONCLUSIONS OF LAW

1. The Department correctly sought to discontinue the petitioner’s BCP effective August 31, 2014, due to excess income.

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.

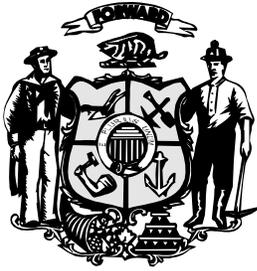
APPEAL TO COURT

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 4th day of September, 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 September 4, 2014.

Marathon County Department of Social Services
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