



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:



DECISION

BCS/160263

PRELIMINARY RECITALS

Pursuant to a petition filed August 28, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Dane County Department of Human Services [“County”] in regard to Medical Assistance [“MA”], a Hearing was held via telephone on October 16, 2014.

The issue for determination is whether it was correct to end petitioner’s BadgerCare Plus [“BC+”] MA effective September 1, 2014.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Lisa Feken, ESS

Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ; 57 years old) is a resident of Columbia County, Wisconsin.

2. Petitioner has a group size of 1 person (himself).
3. On June 18, 2014 the company where petitioner worked closed and he lost his health insurance.
4. On June 19, 2014 petitioner applied with the County for MA.
5. On July 1, 2014 petitioner became eligible for BC+ MA.
6. On July 21, 2014 petitioner's upper teeth were removed.
7. On August 9, 2014 the MA system automatically updated with the fact that petitioner was receiving \$370 per week in Unemployment Compensation Benefits ["UCB"]; with the UCB petitioner's income was now in excess of \$972.50 per month.
8. Petitioner was sent a written *About Your Benefits* notice dated August 11, 2014 informing his that his BC+ would end effective September 1, 2014 because he was over the BC+ income limit.
9. On August 29, 2014 petitioner's lower teeth were removed; 10 weeks must be allowed for petitioner's mouth to heal and reduce swelling before dentures can be placed; denture work could start on November 7, 2014.
10. On September 1, 2014 petitioner's BC+ was terminated because he was over the BC+ income limit.

DISCUSSION

BC+'s nonfinancial eligibility standards were broadened effective April 1, 2014 to include adults, such as petitioner, 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* ["BC+EH"], § 2.1.5. There is an income test. In order to be eligible for BC+ an applicant cannot have adjusted gross income exceeding 100% of the Federal Poverty Level ["FPL"]. Wis. Stat. § 49.45(23)(a); BC+EH § 16.1.1. For a group size of 1 person, like petitioner, 100% FPL is \$972.50 per month. BC+EH § 50.1.¹

Petitioner does not dispute that he is over income for BC+. However, petitioner requests an extension of his BC+ until his dental work is completed and he has his dentures. He testified that he has no teeth right now. Petitioner's request is most understandable. Unfortunately, there is no exception to the income limit for circumstances such as petitioner's.

CONCLUSIONS OF LAW

For the reasons explained above, it was correct to end petitioner's MA effective September 1, 2014.

¹ The only allowed deductions from income are the federal income tax deductions used to arrive at Modified Adjusted Gross Income ["MAGI"], with some modifications. See, 42 C.F.R. § 435.603(e) (2012).

NOW, 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 28th day of October, 2014

\sSean P. Maloney
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 28, 2014.

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