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Redact

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

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In the Matter of

Redact

DECISION

BCS/160303

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 30, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Wood County Human Services - WI Rapids in regard to Medical Assistance, a hearing was held on November 19, 2014, at Wisconsin Rapids, Wisconsin. At the request of petitioner, a hearing set for October 15, 2014 was rescheduled. At the request of the parties, the record was held open for closing arguments to DHA. The petitioner timely submitted her letter to DHA which was received into the hearing record.

The issue for determination is whether the county agency correctly discontinued the petitioner's BadgerCare (BC) benefits effective September 1, 2014, due to household income above the 100% MAGI income limit of \$1,310.83 for a group of two because her husband began to receive SSDI during September, 2014.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

Redact

Respondent:

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

By: Beulah Garcia, ESS  
Wood County Human Services - WI Rapids  
320 West Grand Avenue  
PO Box 8095  
Wisconsin Rapids, WI 54495-8095

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (CARES # Redact) is a resident of Wood County who resides with her husband, Redact.
2. The petitioner and her husband received BadgerCare (BC) Plus benefits.
3. The petitioner has significant medical problems.
4. The petitioner's husband began receiving monthly Social Security Disability Income (SSDI) of \$1,356 during September, 2014 due to end stage renal failure.
5. The county agency sent an August 11, 2014 Notice of Decision to the petitioner stating that her BadgerCare (BC) Plus benefits would discontinue effective September 1, 2014, due to household income of \$1,356 which is above the income eligibility limit of \$1,310.83 for a household of two.
6. After receiving the August 11, 2014 notice, petitioner testified she promptly applied for health insurance through the Marketplace, but was unable to complete that application to meet the August 15, 2014 deadline for coverage during September, 2014. Petitioner's Marketplace coverage began as of October, 2014.
7. The petitioner has significant medical bills from the month of September, 2014.

### 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 19, 2014 hearing, ESS Beulah Garcia, provided petitioner a detailed explanation regarding her household income of \$1,356, due to her husband beginning to receive his SSDI during September, 2014, resulting in household income above the BC income limit of \$1,310.83. During that hearing, 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 that her husband received \$1,356 of SSDI during September, 2014. 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 her countable household income for herself and her husband did exceed 100% FPL as of July, 2014 for a household of two persons. Regarding petitioner's request to have her Marketplace health insurance cover September, 2014, the Division of Hearings and Appeals (DHA) has not legal authority over the actions of health insurance companies in the Federal Marketplace, and whether there might have been some exception whereby her coverage could have begun prior to October 1, 2014. Accordingly, based upon the above, I must conclude that the county agency correctly discontinued the petitioner's BadgerCare (BC) benefits effective September 1, 2014, due to household income above the 100% MAGI income limit of \$1,310.83 for a group of two because her husband began to receive SSDI during September, 2014.

**CONCLUSIONS OF LAW**

The county agency correctly discontinued the petitioner's BadgerCare (BC) benefits effective September 1, 2014 (for the month of September, 2014), due to household income above the 100% MAGI income limit of \$1,310.83 for a group of two because her husband began to receive SSDI during September, 2014.

**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 23rd day of December, 2014

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\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 23, 2014.

Wood County Human Services - WI Rapids  
Division of Health Care Access and Accountability