



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/160395

PRELIMINARY RECITALS

Pursuant to a petition filed September 08, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Rock County Department of Social Services in regard to Medical Assistance, a hearing was held on October 28, 2014, at Janesville, Wisconsin.

The issue for determination is whether the Department correctly denied the petitioner's BCP application due to excess income.

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: Mary Donahue

Rock County Department of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County.
2. On July 25, 2014, the petitioner filed an application for the BCP program, seeking eligibility. Exhibit 4.

3. Because the petitioner has earned income, the Department reviewed income verification consisting of petitioner's July, 2014 paystubs, as well as an Employer Verification of Earnings form. Exhibit 3.
4. On August 19, 2014, the Department issued written notice to the petitioner, advising that she was not eligible for BCP, due to excess income. Exhibit 2.
5. The petitioner timely appealed the application denial. Exhibit 1.
6. The adjusted gross income relied upon by the Department in its determination was \$2,136.28 monthly, based upon petitioner's wages for July from [REDACTED] [REDACTED] [REDACTED]. (\$503.14 weekly average), and petitioner's husband Social Security income (\$1,130 monthly).

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 October 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 adult 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, \$1,310.83 for a household of two persons, and \$1,649.17 for three persons in 2014. *Id.*, § 50.1.

The Department calculated monthly gross income for this 2-person household of \$2,136.28. 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). No applicable deductions were identified here.

I have reviewed the calculations and do not find any error. Petitioner questioned why her husband's income was included, and the respondent correctly noted that BadgerCare rules require that petitioner's spouse's income be included. Married individuals who are living together are always included in each other's group size, even if they are filing taxes separately. See, *BCPEH* § 2.3.2.1.

CONCLUSIONS OF LAW

The petitioner's household income exceeds the BadgerCare Plus income limits, and the county agency correctly denied her request for BadgerCare Plus coverage.

NOW, THEREFORE, it is ORDERED

That the petition for review herein be, and the same hereby 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 21st day of November, 2014.

\sPeter McCombs
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 November 21, 2014.

Rock County Department of Social Services
Division of Health Care Access and Accountability