



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
Redact

DECISION

BCS/161257

PRELIMINARY RECITALS

Pursuant to a petition filed October 14, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Brown County Human Services in regard to Medical Assistance, a telephonic hearing was held on December 02, 2014, at Green Bay, Wisconsin. At the request of the parties, the record was held open for two weeks for the submission of generic letters that were sent to all BadgerCare recipients regarding changes in BC as of April 1, 2014, and then for a written response by petitioner to DHA. Both parties timely submitted their information or response to DHA which are received into the hearing record.

The issue for determination is whether the county agency correctly discontinued the petitioner's BadgerCare (BC) Plus benefits effective September 1, 2014, due to household income above the 100% MAGI income limit of \$972.50 for a group of one.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
[Redacted]
Redact

Respondent:

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

By: [Redacted], ESS
Brown County Human Services
Economic Support-2nd Floor
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # Redact) is a 43 year old resident of Brown County who received BadgerCare (BC) Plus benefits for a household of one.
2. The county agency sent about five generic notices to the petitioner explaining that as of April 1, 2014, the income eligibility limit for BadgerCare households was reduced to 100% Federal Poverty Limit (FPL), and for a BC household of one the income limit was \$972.50.
3. The petitioner completed her August, 2014 BC renewal application.
4. The petitioner receives monthly gross Social Security of \$1,469.90.
5. The petitioner has significant medical problems.
6. The county agency sent an August 12, 2014 Notice of Decision to the petitioner stating that her BadgerCare Plus benefits would discontinue effective September 1, 2014, due to income of \$1,469.90 which is above the 100% FPL income eligibility limit of \$972.50 for a household of one.

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 December 2, 2014 hearing, ESS Redact, provided petitioner a detailed explanation regarding her gross Social Security income of \$1,469.90, as confirmed during her August, 2014 review, resulting in household income above the BC income limit of \$972.50 for a household of one. During that hearing and in her written submission while the record was held open, 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 one adult. The petitioner did not dispute that she received gross Social security of \$1,469.90 and net income of \$1,365.00. 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 did exceed 100% FPL as of September, 2014 for a BC household of one.

However, petitioner argued that to the best of her recollection she did not receive any notices notifying her of the BC income eligibility limit changes (reductions) for continued BC eligibility. The county agency was unable to produce the specific notice sent to the petitioner, but sent to DHA (and to petitioner) five generic BC notices that were sent to all BC recipients regarding BC changes, and specifically stated that the income limit was reduced to 100% FPL as of April 1, 2014. Petitioner may not have remembered receiving those five notices, but those notices were automatically sent out to all BC recipients.

The petitioner also argued that if she had been aware of the reduction in income limits, she might have changed her tax return (not given her dependent child credit to her ex-husband to claim their children on his tax return). However, such argument is basically asking for equitable relief. ALJs do not have the authority to grant any equitable relief and must follow law and policy, including income eligibility limits. 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 \$972.50 for a group of one.

CONCLUSIONS OF LAW

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 \$972.50 for a group of one.

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 8th day of January, 2015

\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 January 8, 2015.

Brown County Human Services
Division of Health Care Access and Accountability