



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/161866

PRELIMINARY RECITALS

Pursuant to a petition filed November 10, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on December 17, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly discontinued Petitioner’s BadgerCare Plus coverage, and enrolled her in Medicaid with a deductible amount of \$2,395.98 effective December 1, 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Simone Johnson

Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County. Petitioner’s household consists of her and child. Petitioner receives SSI as an elderly, blind, or disabled (EBD) household.

2. On November 3, 2014 Petitioner completed a renewal. Petitioner's monthly gross income for healthcare coverage determination is \$1,011.00 from social security. Petitioner was also eligible for Medicare Part A and B.
3. On November 4, 2014 the agency sent Petitioner that effective December 1, 2014 Petitioner's BC Plus benefits would be discontinued. Petitioner is eligible for Medicare Part A and B, which makes her ineligible for BC Plus benefits. Petitioner was eligible for Medicaid with a deductible amount of \$2,395.98, and SLMB for coverage of her Medicare Part B premiums.
4. On November 19, 2014 the Division of Hearings and Appeals received Petitioner's request for fair hearing.

DISCUSSION

Badger Care (BC) Plus Eligibility

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, at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> (viewed in September 2014). The program has both financial and non-financial eligibility requirements. Petitioner meets the financial eligibility requirements because her income is below the program limit. For a childless adult to qualify for BC Plus the person must also be between 19 and 64 years old, and not be receiving Medicare. *BCPEH*, § 2.1. In this case Petitioner does not dispute that she receives Medicare. Therefore Petitioner is not eligible for BC Plus regardless of her income.

I note that Petitioner only seemed to be appealing the denial of her BC Plus coverage effective December 1, 2014. However, I am still addressing what the agency did with respect to Petitioner's healthcare coverage overall. Even though Petitioner was no longer eligible for BC Plus, she was eligible for Medicaid with a deductible and Medicare Premium Assistance.

Medicaid

In order to qualify for SSI related Medicaid, individuals receiving SSI must meet all appropriate Medicaid nonfinancial eligibility requirements. *Medicaid Eligibility Handbook*, § 24.1. SSI related Medicaid has the lowest income and asset limits of all EBD (elderly, blind, or disabled) Medicaid programs. *Id.* It has two income limits: the Categorically Needy limit and the Medically needy limit. *Id.*

The EBD categorically needy income limit consists of two components; an income amount plus a shelter amount. The shelter amount includes shelter, fuel, and utility costs. *MEH*, § 24.1. The EBD fiscal group's total actual shelter expenses are compared to a maximum allowance. *Id.* The actual shelter costs or the shelter maximum, whichever is less, is added to the categorically needy income amount, and this total becomes the EBD categorically needy income limit. *Id.* A fiscal group with income that does not exceed the categorically needy income limit passes the Medicaid EBD categorically needy income test. *Id.*

If an EBD related fiscal group's income exceeds the categorically needy income limit, their income is then compared to a medically needy limit. *Id.* The medically needy limit is \$591.67. *MEH*, § 39.4.1. If an EBD fiscal group fails the medically needy income test because their net income exceeds the medically needy income limit, they can still qualify for Medicaid if they can meet a Medicaid Deductible. *MEH*, § 24.1. "Meeting the Medicaid deductible" means incurring medical costs that equal the dollar amount of

the deductible. *MEH*, § 24.2. The Medicaid deductible is the group's total excess monthly income over the 6 consecutive months of the Medicaid deductible period. *Id.*

In this case I have reviewed the agency's calculation, and the agency correctly determined that Petitioner was eligible for EBD Medicaid with a \$2,395.98 deductible. Petitioner's monthly household gross income is \$1,011.00. Petitioner did not dispute this amount. This is in excess of the medically needy income limit of \$591.67. That limit is higher than the categorically needy income limit, and therefore Petitioner does not qualify for either categorically or medically needy EBD Medicaid. Petitioner is eligible for EBD Medicaid with a deductible amount of \$2,395.98. The deductible amount is the total excess monthly income for six months. \$2,395.98 is the correct amount. The counted income limit is \$591.67. \$20 per month is also disregarded, leaving an excess monthly income is just under \$400. Petitioner did not dispute this amount, but rather stated that she not afford to pay that amount, and believed that she should qualify for BC Plus.

I note that if Petitioner has additional medical expenses, Petitioner may submit those expenses, and may qualify for a reduced deductible. At this point in time Petitioner would not have additional medical expenses as Petitioner previously qualified for BC Plus without a premium.

Premium Assistance

For the purposes of premium assistance Petitioner's household size is one. In determining eligible for QMB, SLMB, and SLMB+ the household size used is the fiscal group. An EBD fiscal group includes the individual who is non financially eligible for Medicaid and anyone who lives with them, and who is legally responsible for them. *MEH*, § 15.1.1. In this case Petitioner has a child who lives with her. The child is not included in the fiscal test group because the child not legally responsible for Petitioner.

Medicare charges premiums for its insurance. Wisconsin MA pays some or all Medicare premiums for the persons participating in the programs described below:

1. Qualified Medicare Beneficiary (QMB).
2. Specified Low-Income Medicare Beneficiary (SLMB).
3. Specified Low-Income Medicare Beneficiary Plus (SLMB+), also known as Qualifying Individuals – 1 (QI-1).
4. Qualified Disabled and Working Individuals (QDWI).

MEH, § 32.1.1. See also, Wis. Stat. §49.468.

The income limit is set below 100% of the federal poverty level for QMB, 100% to 119% for SLMB, 120% to 134% for SLMB+, and up to 200% for QDWI. *MEH*, 32.2.3 & 39.5. A person who is eligible and certified for QMB will have his/her Medicare Part A and B premiums paid by the Wisconsin Medical Assistance program. A SLMB or SLMB+ recipient will have only his Medicare Part B premiums paid by Wisconsin MA. A QDWI recipient will have only his/her Medicare Part A premiums paid by the state MA program.

The income limit for a household of one persons is currently \$972.50 for QMB, \$1,167 for SLMB, \$1,312.88 for SLMB+, and \$1945 for QDWI. In this case Petitioner's monthly gross income is \$1,011.00. Therefore, Petitioner meets the income limit for the SLMB program. The Wisconsin Medical Assistance programs have asset limits in addition to the income limits. Petitioner does not have any assets, and meets those limits.

CONCLUSIONS OF LAW

The agency correctly discontinued Petitioner’s BC Plus coverage enrolling her in EBD Medicaid with the correct deductible amount and SLMB to cover her Medicare Part B premium effective December 1, 2014.

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 Milwaukee,
Wisconsin, this 5th day of January, 2015

\sCorinne Balter
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 5, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability