



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
Redact

DECISION

BCS/162016

PRELIMINARY RECITALS

Pursuant to a petition filed November 18, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Dane County Department of Human Services in regard to Medical Assistance, a hearing was held on December 16, 2014, at Madison, Wisconsin.

The issue for determination is whether the county agency correctly discontinued the petitioner's BadgerCare Plus eligibility effective December 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
Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Dane County.
2. The petitioner received BadgerCare (BC) Plus benefits for a household of one.

3. Petitioner has been employed at Redact (a temporary employment agency) since October, 2014, and receives monthly earned income of about \$2,294. See Exhibit 1.
4. The county agency sent an October 31, 2014 notice to the petitioner stating that effective December 1, 2014 his BadgerCare (BC) Plus eligibility would discontinue due to income above the 100% FPL of \$972.50 for a household of one per BadgerCare Plus Eligibility Handbook, 16.1.1, "Income Limits.

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 in 2014. *Id.*, § 50.1.

The Department has correctly counted the petitioner's monthly earned income of \$2,294. The petitioner did not dispute the earned income amount budgeted for himself based upon his weekly pay stubs for the entire month of October, 2014. However, during the December 16, 2014 hearing, the petitioner explained that he needs BadgerCare health insurance coverage for treatment of his medical issues. 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 his countable household income does exceed 100% FPL for a household of one person. Accordingly, based upon the above, I must conclude that the county agency correctly discontinued the petitioner's BadgerCare Plus eligibility effective December 1, 2014, due to household income above the 100% MAGI income limit of \$972.50 for a group of one.

CONCLUSIONS OF LAW

1. The petitioner's household income does exceed the relevant 100% MAGI FPL limit for BCP eligibility for a household of one.
2. The county agency correctly discontinued the petitioner's BadgerCare Plus eligibility effective December 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 9th day of February, 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 February 9, 2015.

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