



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/162052

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 17, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Vilas County Department of Social Services in regard to Medical Assistance, a hearing was held on December 11, 2014, at Eagle River, Wisconsin.

The issue for determination is whether the agency erred in its determination that petitioner and her husband are not eligible for BC+.

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: Denise Jeffers

Vilas County Department of Social Services  
330 Court Street  
Eagle River, WI 54521

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Vilas County.
2. Petitioner lives with her husband and 4 children.
3. One of the children is claimed as a dependent by petitioner's ex-husband on his taxes.

4. Petitioner underwent a periodic BC+ review on October 2014. At the time of that review, petitioner provided income information and verification reflecting \$2,392.40 in countable income.
5. On 10/27/14, the agency sent notice to petitioner informing her that the four children were eligible for BC+ but that the petitioner and her husband were not.
6. Petitioner appealed.

### DISCUSSION

Prior to April 1, 2014, the income limit for BC+ was 200% of the FPL. State law changed effective April 1, 2014 following the passage of 2013 Wisconsin Act 20. As of that date the limit for caretaker parents was reduced to 100% of the FPL, which, for a four-person household is \$1,987.50 and for a one-person household is \$972.50. See Wis. Stat., §49.471(4)(a)4.b for the new law, and the BC+ Handbook, Appendix 50.1 for the limit. The new law also changed how income is budgeted. Now income is budgeted based upon tax relationships as well as family relationships, and income is based upon taxable income under Modified Adjusted Gross Income (MAGI) rules. Handbook, App. 2.8.2, definition of "MAGI." The changes occurred as of April 1, 2014 for new applicants, and when current recipients completed reviews. Thus petitioner's case is affected by the new rules as of August 1, 2014 after the household review was completed on October 2014.

Under the new MAGI rules, parents' financial eligibility is determined along with their spouses and any children who are claimed *as dependents on the parents' tax returns*. BC+ Handbook § 2.3.2.1. In petitioner's case one of her children is claimed by her ex-husband. That child may, thus, not be considered as part of the household for MAGI determination relating to the petitioner. Thus the household is a 5-person household for MAGI purposes. I must find, however, that the county correctly denied petitioner's BC+ as of August 1, 2014 when the changes were implemented for his household.

Petitioner's argument that a court order states that she is entitled to make health care decisions for the children is not relevant to the MAGI financial determination. If the situation changes and the child in question become a tax dependent of petitioner for tax filing purposes, then the child may be considered part of the household for financial determination as to petitioner's BC+ eligibility.

Petitioner also claims that household income varies. If this is so, then petitioner should work with the agency and provide updated income information. With more recent information and the appropriate verifications by the agency it is possible that eligibility could change. But, the issue for this appeal is only the determination that was noticed by the 10/27/14 notice.

### CONCLUSIONS OF LAW

The county correctly determined that petitioner is not eligible for BC+ based upon her income being above the limit for a 5-person test group, following the changes to the BC+ law that resulted in the implementation of MAGI rules.

**THEREFORE, it is**

**ORDERED**

That 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 2nd day of February, 2015

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\sJohn P. Tedesco  
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 2, 2015.

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