



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/162133

PRELIMINARY RECITALS

Pursuant to a petition filed November 11, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the DHS Cares Call Center in regard to Medical Assistance, a hearing was held on December 23, 2014, by telephone.

The issue for determination is whether the Department correctly denied the petitioner's household's BC+ certification due to lack of nonfinancial eligibility for 2014, contrary to a December 2013 Marketplace determination.

There appeared at that time 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: Alma Lezama, HSPC Sr.
DHS Cares Call Center
Madison, WI

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a "childless adult" resident of Dodge County.
2. Prior to passage of 2013 Wisconsin Act 20, "childless adults" were essentially ineligible (*i.e.*, on a waiting list) for any form of Medicaid unless they were elderly, blind or disabled. Put another way, low income alone would not cause a Wisconsin resident to receive any form of Medicaid,

including BC+. With the passage of 2013 Wisconsin Act 20 effective July 2, 2013, any childless adult under age 65 with family income at or below 100% of the federal poverty line was BC+ eligible beginning January 1, 2014. *See*, 2013 Wisconsin Act 20, §§ 1046 and 9418(7).

3. The petitioner applied for Wisconsin Medicaid/BC+ (hereinafter, BC+) through the federal Marketplace on **December 18, 2013** (Marketplace application #175635723). On approximately the same date, the Marketplace issued a written notice to him, advising that he was not eligible for “Medicaid”/BC+ in Wisconsin. The petitioner filed a hearing request with the federal Marketplace appeals office on January 13, 2014. That office did not act on his appeal, and did not forward his appeal to Wisconsin until late October 2014. This hearing (December 23, 2014) was held to review the December 18 BC+ denial.
4. On December 21, 2013, the Wisconsin Legislature and governor changed the Wisconsin Statutes such that “childless adults” would not be eligible for BC+ until April 1, 2014. *See*, 2013 Wis. Act 116.
5. The federal Marketplace forwarded the petitioner’s BC+ application to Wisconsin for further review on an unknown date between December 18, 2013 and February 19, 2014.
6. Due to last minute state law changes and delays in receiving information from the federal Marketplace, Wisconsin’s computer system was not ready to determine the petitioner’s eligibility until mid-February 2014.
7. On February 19, 2014, the Department issued written notice to the petitioner, advising that he was not eligible for BC+ in December 2013, due to excess income. Evaluation of the petitioner for Elderly/Blind/Disabled Medicaid was not completed because the petitioner “did not complete, sign and submit the Medicaid Disability Application form.” However, that form was never mailed to the petitioner. The notice also advised that the petitioner was not eligible for BC+ for April 2014 onward, due to excess income. The petitioner did not file an appeal with this Wisconsin office upon receiving the denial notice from Wisconsin. The state appeal deadline is 45 days (April 7, 2014).
8. The adjusted monthly gross income relied upon by the Department in its determination was \$2,223.77 (\$1,759 in Social Security Disability, \$106.77 pension, \$358.00 disability insurance). This income figure was correct. The BC+ income limit for one person was \$972.50 (100% federal poverty level). The petitioner does not become eligible for *Medicare* health insurance until the fall of 2015.

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>. There is no dispute that the petitioner met the nonfinancial eligibility tests for the program effective April 1, 2014.

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. The petitioner’s household of one never met the income test in 2014.

The Department correctly calculated a gross income amount for the petitioner of \$2,223.77. 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 did not identify any of these adjusted gross income deductions as being applicable here.

The petitioner desires to have BC+ coverage to potentially cover the cost of the very large deductible that he met while on private insurance coverage in 2014. (BC+ has no annual deductible.) However, his income was clearly over the \$972.50 monthly BC+ limit throughout 2014, so he was not eligible for BC+ at any time in 2014.

The petitioner was also potentially eligible in 2014 for Elderly/Blind/Disabled Medicaid, as he is a disabled person. Unlike BC+, the EBD Medicaid program has a large deductible. In this case, the deductible would have been \$9,064.80 every six months. I lack jurisdiction to review the state's February 19, 2014 EBD Medicaid denial, because the petitioner did not file a hearing request on that topic during the February 19 through April 7, 2014, statutory period for a state hearing.

CONCLUSIONS OF LAW

1. The petitioner's household income exceeded the relevant limit for BC+ eligibility throughout 2014.
2. The Department and the Marketplace correctly denied BC+ certification to the petitioner for 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 Madison,
Wisconsin, this 6th day of February, 2015

\sNancy J. Gagnon
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 6, 2015.

DHS Cares Call Center
Division of Health Care Access and Accountability
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