



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redacted name and address

DECISION

BCS/162370

PRELIMINARY RECITALS

Pursuant to a petition filed December 3, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA)/BadgerCare Plus (BCP), a hearing was held on January 8, 2015, at Milwaukee, Wisconsin. A hearing set for December 23, 2014, was rescheduled at the petitioner's request.

The issue for determination is whether the Department correctly discontinued the petitioner's BCP due to excess income.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

Redacted name and address

Respondent:

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

By: Redacted name, HSPC Sr.
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # Redacted) is a non-elderly adult resident of Milwaukee County.

2. Prior to January 2015, the petitioner (household of one) was covered by the BCP program, as a “childless adult.”
3. Because the petitioner has earned income, the Department mailed a periodic income verification request to the petitioner on November 4, 2014. The petitioner filed a timely response to that request.
4. On November 21, 2014, the Department issued written notice to the petitioner, advising that she was no longer eligible for BCP effective January 1, due to excess income. She appealed.
5. The adjusted gross income relied upon by the Department in its determination was \$910.00 in monthly wages from Independence First. The Department also budgeted wages of \$441 monthly from **Redact**, based on submitted paystubs. The petitioner has regular hours with Independence First, but has variable hours with **Redact**. She supplied updated **Redact** paystubs at hearing; those checks average out to \$379.84 monthly. Using the income verified at hearing, her average monthly total gross income is \$1,289.84.

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>. 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 person in 2014 and January 2015. *Id.*, § 50.1.

The Department has calculated a gross income amount for the petitioner, based on the average of submitted paystubs, which exceeds the limit. From gross income, the Department is allowed to subtract only those income tax deductions listed on lines #23 - #35 of the federal 1040 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’s disagreement with the Department’s income calculation pertains to the gross income calculation. She asserts that her **Redact** income is variable. Her updated **Redact** paystubs were used by this Judge to re-calculate her income in Finding #5 above. Based on that evidence, I found that the petitioner’s adjusted gross income is \$1,289.84 monthly. This does exceed 100% FPL for a household of one person.

CONCLUSIONS OF LAW

1. The petitioner’s household income exceeds the relevant limit for BCP eligibility.
2. The Department correctly discontinued the petitioner’s BCP.

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 9th day of January, 2015

\sNancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 9, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability