



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/163226

PRELIMINARY RECITALS

Pursuant to a petition filed January 13, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Dane County Department of Human Services in regard to Medical Assistance (MA)/BadgerCare Plus, a hearing was held on February 4, 2015, at Madison, Wisconsin.

The issue for determination is whether the Department correctly discontinued the petitioner’s adult BadgerCare Plus (BCP) eligibility, due to excess income.

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: Bridget Bell, Lead ES Spec.
Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]), age 44, is an adult resident of Dane County.
2. Prior to February 2015, the petitioner was certified for BCP. In late December 2014, the petitioner reported employment at [REDACTED] [REDACTED] [REDACTED] ([REDACTED]). The employer

verification from █████ states that the petitioner works 30 hours weekly, at \$8.50 an hour. *See*, Exhibit 2, verification form. This income had not been previously reported.

3. On December 24, 2014, the Department issued written notice to the petitioner advising that her adult BCP would be discontinued effective February 1, 2015. The basis for discontinuance was excess income.
4. The petitioner's gross income from █████ totals \$1,020 monthly, and exceeds the BCP monthly income limit of \$972.50.

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); *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1, at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> (viewed in March 2015). 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, and \$1,310.83 for a household of two persons in 2015. *Id.*, § 50.1.

The Department has calculated a gross income amount for the petitioner of \$1,020, based on employer verification. 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 questioned the use of gross, rather than net income, in the eligibility calculation. However, the federal Medicaid rules, which apply here, require the Department to begin with gross income and then *only* subtract the deductions mentioned in the paragraph above. *E.g.*, contributions to an Individual Retirement Account.

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 24th day of March, 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 March 24, 2015.

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