



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of:



DECISION

BCS/164000

**PRELIMINARY RECITALS**

Pursuant to a petition filed February 13, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Outagamie County Department of Human Services [“County”] in regard to Medical Assistance [“MA”], a Hearing was held via telephone on March 19, 2015.

The issue for determination is whether it was correct to deny petitioner MA BadgerCare Plus [“BC+”] for January 2015.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

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

BY:  ESS II  
Outagamie County Department of Human Services  
401 S. Elm Street  
Appleton, WI 54911-5985

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Outagamie County, Wisconsin.

2. On December 15, 2014 petitioner applied for BC+ with the County; his group size is 1 (himself only)
3. Petitioner's BC+ countable income for January 2015 was in excess of \$972.50.
4. Petitioner was sent an *About Your Benefits* written notice dated January 27, 2015 informing him that his application for BC+ was denied for January 2015 because his income was over the BC+ program limit.

### DISCUSSION

BC+'s nonfinancial eligibility standards were broadened effective April 1, 2014 to include adults, such as petitioner, who do not have minor children in their home. Wis. Stat. § 49.45(23) (2013-14); *BadgerCare Plus Eligibility Handbook* ["BC+EH"], § 2.1.5. There is an income test. In order to be eligible for BC+ an applicant cannot have adjusted gross income exceeding 100% of the Federal Poverty Level ["FPL"]. Wis. Stat. § 49.45(23)(a) (2013-14); BC+EH § 16.1.1. For a group size of 1 person, like petitioner, 100% FPL in January 2015 was \$972.50 per month. BC+EH § 50.1.<sup>1</sup>

Petitioner does not dispute that he was over income for BC+ in January 2015. However, petitioner testified that he had surgery on January 27, 2015 and in a telephone call prior to that time was told by the County that he qualified for BC+ as of December 2014. Petitioner did qualify for BC+ in December 2104 -- but his income increased and this put him over the income limit for January 2015.

Petitioner may wish to apply to the federal marketplace (i.e. "ObamaCare") for January 2015. If the federal marketplace denies him for January 2015 he might qualify for BC+ "Gap Filling" coverage. See, *DHS Operations Memo* No.: DHS 14-41 Date September 24, 2014.

### CONCLUSIONS OF LAW

For the reasons explained above, it was correct to deny petitioner BC+ for January 2015.

**NOW, 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.

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<sup>1</sup> The only allowed deductions from income are the federal income tax deductions used to arrive at Modified Adjusted Gross Income ["MAGI"], with some modifications. See, 42 C.F.R. § 435.603(e) (2015).

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 16th day of April, 2015

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\sSean P. Maloney  
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 April 16, 2015.

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