



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/164061

PRELIMINARY RECITALS

Pursuant to a petition filed February 18, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Brown County Human Services in regard to Medical Assistance, a hearing was held on April 15, 2015, at Green Bay, Wisconsin.

The issue for determination is whether the respondent correctly found petitioner ineligible for enrollment in BadgerCare.

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: 
Brown County Human Services
Economic Support-2nd Floor
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Brown County, and was the head of a Badgercare (BC) Assistance Group of 1.

2. Petitioner received a notice February 9, 2015, indicating that his BC enrollment would terminate as of March 1, 2015, due to program ineligibility arising from an increase in his income.
3. Petitioner receives \$1,853.00 in monthly unearned income.

DISCUSSION

Effective April 1, 2014, due to a change in federal and state law, adults in Wisconsin became eligible for BC if several conditions were met. One threshold condition is that the household income must be under 100% of the federal poverty level (FPL); for a household of 1, that limit is \$980.83. The petitioner does not meet that condition.

The petitioner did not contest the budget or income calculations at hearings, but instead argued that he should be able to invoke extenuating circumstances regarding his BC eligibility. I have reviewed the regulations and BC policy and did not note any allowance for extenuating circumstances when budgeting unearned income for BC purposes; the petitioner was unable to cite to any such language. The petitioner has in effect argued that the program standard is unfair and that the administrative law judge should grant him relief from the program requirements. It is the long-standing policy of the Division of Hearings & Appeals, Work & Family Services Unit, that the Department's assigned administrative law judges do not possess equitable powers. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. Under law, he is not eligible for enrollment in BC due to income exceeding program limits. No exception applies, and I am without any equitable powers to direct any remedy beyond the remedies available under law.

CONCLUSIONS OF LAW

The agency correctly determined that petitioner is not eligible for enrollment in BC due to income exceeding program limits.

THEREFORE, it is

ORDERED

That this 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 12th day of May, 2015

\sPeter McCombs
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 May 12, 2015.

Brown County Human Services
Division of Health Care Access and Accountability