



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/164091

PRELIMINARY RECITALS

Pursuant to a petition filed February 20, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA), a telephonic hearing was held on April 16, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly discontinued the petitioner's BadgerCare Plus (BCP) effective March 1, 2015, due to excess income.

There appeared at that time and place 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: Katherine May, HSPC Sr.
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. She has been receiving BCP as an assistance group of one.
2. On February 7, 2015 the agency received an alert that petitioner began receiving unemployment compensation in the amount of \$304 weekly. She also receives a monthly pension in the amount of \$108.64.
3. Petitioner's MA eligibility was recalculated with the new UC income and on February 9, 2015 the agency issued a notice of decision to petitioner stating that her BCP would end March 1, 2015 due to the increase in household income.

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 must pass an income test to be eligible for BCP. The income limit for adults went lower effective April 1, 2014: an eligible adult 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 \$980.83 monthly for a household of one. *Id.*, §50.1.

The agency determined the household's income pursuant to the policy set forth in the *BCPEH*. The *BCPEH* states that beginning in February 1, 2014, BCP eligibility determinations will use Modified Adjusted Gross Income (MAGI) rules. MAGI rules are based on an individual's tax household, not necessarily on the physical household or family relationships. The agency determined petitioner's monthly gross income to be \$1324.64 as a household of 1. From gross income the Department is allowed to subtract only those income tax deductions listed on lines #23 through #35 of the federal 1040 tax return, subject to modifications listed at 42 C.F.R. §435.603(e). No applicable deductions were identified here.

The petitioner did not disagree with the income determined for her and I find no errors in the calculation. Accordingly, I must find that the Department correctly calculated the petitioner's household income, which is over the one-person limit. While I understand this may seem unfair, I cannot deviate from the income requirements established under state law.

CONCLUSIONS OF LAW

The agency correctly discontinued the petitioner's BCP effective March 1, 2015, due to excess income.

THEREFORE, it is

ORDERED

The petition for review herein 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.

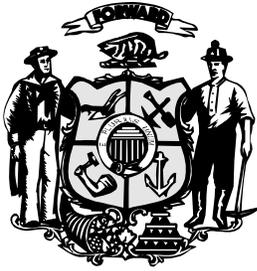
APPEAL TO COURT

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 Milwaukee,
Wisconsin, this 13th day of May, 2015

\sKelly Cochrane
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 13, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability