



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/164121

PRELIMINARY RECITALS

Pursuant to a petition filed February 19, 2015, under Wis. Stat., §49.45(5)(a), to review a decision by the Northern ES Consortium to discontinue Medical Assistance (MA), a hearing was held on April 8, 2015, by telephone.

The issue for determination is whether the agency correctly determined petitioner's income for BC+ purposes.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Beulah Garcia
Northern ES Consortium
10610 Main St., Suite 224
Hayward, WI 54843

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Iron County.
2. Petitioner receives BC+ for a one-person household. She had a review in February, 2015. Following the review the agency notified petitioner that BC+ would end March 1, 2015 because her income was over the limit.
3. Petitioner's only income is earned in the early months of each year as a tax preparer. At the review she presented her two most recent pay stubs that averaged out to \$1,374 per month.

4. In 2014 petitioner earned a total of \$5,382 from the job. She also received \$228 in unemployment compensation. See petitioner's 2014 income tax return. Her earnings are expected to be similar in 2015.

DISCUSSION

Prior to April 1, 2014, the state had an MA program for childless adults called the BC+ Core program with an income limit of 200% of the Federal Poverty Level (FPL). The program was limited to only a small number of potentially eligible participants due to enrollment limits. State law changed effective April 1, 2014. As of that date all childless adults are eligible for BC+ but with the income limit reduced to 100% of the FPL, which, for a one-person household, is \$972.50. See Wis. Stat., §49.471(4)(a)4.b for the new law, and the MA Handbook, Appendix 50.1 for the limit.

The new law also changed how income is budgeted. Now income is budgeted based upon tax relationships as well as family relationships, and income is based upon taxable income under Modified Adjusted Gross Income (MAGI) rules. Handbook, App. 2.8.2, definition of "MAGI." The major changes under MAGI are how the household is determined (in cases where parents are separated children go with the parent who claims them as tax dependents), in how self-employment income is determined, and how certain types of income are counted (in particular child support). There is nothing in the policy suggesting that seasonal income be averaged on a yearly basis.

The only policy close to petitioner's situation is found at App. 16.7 of the Handbook, "Prorating Income." That section says: "Income received on a yearly basis or less often than monthly, that is predictable in both amount and frequency, must be converted to a monthly amount or prorated." The example provided is a regular quarterly royalty payment of \$1,500; that amount should be converted to \$500 monthly. Petitioner's situation is not like the one described in that section; her income is predictable in neither amount nor frequency.

Based upon this research, I conclude that the agency correctly determined petitioner's income using her most recent pay stubs, and that petitioner thus was over the BC+ income limit effective March 1, 2015. There is no basis for me to order that petitioner's tax preparation income be prorated over the entire year. As noted, she can reapply when her job ends, assuming she does not obtain a new job with similar income.

CONCLUSIONS OF LAW

The agency correctly determined that petitioner's income was over the BC+ limit based upon her most recent month's pay stubs.

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.

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 10th day of April, 2015

\sBrian C. Schneider
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 April 10, 2015.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability