



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:



DECISION

BCS/164178

PRELIMINARY RECITALS

Pursuant to a petition filed February 24, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services [“MiLES”] in regard to Medical Assistance [“MA”], a Hearing was held via telephone on March 17, 2015.

The issue for determination is whether it was correct to discontinue petitioner’s BadgerCare Plus MA [“BC+”] effective March 1, 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: Katherine May, HSPC Senior
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ; 37 years old) is a resident of Milwaukee County, Wisconsin.

2. Petitioner has a group size of 2 persons (herself and her child); petitioner is not pregnant.
3. Petitioner's group income is in excess of \$1,327.50 per month (she receives Unemployment Compensation ["UC"] of \$1,480 per month).
4. Petitioner's BC+ was discontinued effective March 1, 2015 because she is over the BC+ income limit.

DISCUSSION

With certain exceptions not applicable here, a person is eligible for BC+¹ only if the countable monthly family income does not exceed 100% of the Federal Poverty Level ["FPL"]. Wis. Stat. § 49.471(4) (2013-14); *BadgerCare Plus Eligibility Handbook* ["BC+EH"] 16.1.1. *Family income* means the total gross earned and unearned income received by all members of a family (the income of children is disregarded unless the child is required to file a tax return). Wis. Stat. § 49.471(1)(f) (2013-14); 42 C.F.R. § 435.603(d)(2) (2015).

Petitioner does not dispute that she is over income for BC+. Her income is at least \$1,480 per month. Her Test Group size is 2 persons. The income limit for a Test Group size of 2 persons is \$1,327.50 per month. See , BC+EH 50.1.²

Petitioner testified that she has seizures and that she needs to keep her health insurance due to her medical condition. She testified that she cannot afford health insurance in the federal marketplace. Petitioner's circumstances are sympathetic. However, petitioner cannot be eligible for BC+ when her income is over the BC+ program limit. As an Administrative Law Judge ["ALJ"] I am compelled follow the strict legal requirements of the law.

CONCLUSIONS OF LAW

For the reasons explained above, it was correct to discontinue petitioner's BC+ effective March 1, 2015.

NOW, THEREFORE, it is

ORDERED

that the petition for review herein be and the same is hereby DISMISSED.

¹ BC+'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) (2013-14); *BadgerCare Plus Eligibility Handbook* ["BC+EH"], § 2.1.5.

² 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).

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 23rd day of April, 2015

\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 23, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability