



FH

[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed June 1, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the La Crosse County Department of Human Services in regard to BadgerCare Plus (BCP), a hearing was held on July 7, 2015, by telephone.

The issue for determination is whether the Department correctly discontinued the petitioner’s adult BCP benefit effective June 1, 2015.

There appeared at that time 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: [REDACTED]

La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is an adult resident of Monroe County.
2. Prior to June 2015, the petitioner was certified for BCP as a household of two persons (self and adult tax-dependent child). Updated employment verification was received from employer [REDACTED]

██████████ on May 11, 2015. The employer verification from ██████████ ██████████ shows data that result in a \$2,136.40 monthly gross income calculation (48-50 hours weekly, at \$10.90 hourly). *See*, Exhibit 3, verification form.

3. On May 18, 2015, the Department issued written notice to the petitioner advising that her BCP would be discontinued effective June 1, 2015. The basis for discontinuance was excess income.
4. The petitioner's gross income from ██████████ ██████████ was correctly reported, and exceeds the BCP monthly income limit of \$1,310.83. The petitioner is a seasonal worker. Per her 2014 federal tax reporting, her earnings plus Unemployment Compensation totaled \$20,004 in 2014. That amount averages out to \$1,667 monthly, which exceeds the BCP income limit.

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); *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1, at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> (viewed in July 2015). The petitioner meets the nonfinancial eligibility tests for the program.

The petitioner must also pass an income test. An eligible applicant 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 \$972.50 monthly for a household of one, and \$1,310.83 for a household of two persons in 2015. *Id.*, § 50.1.

The Department has calculated a gross income amount for the petitioner of \$1,020, based on employer verification. From gross income, the Department is allowed to subtract only those income tax deductions listed on lines #23 - #35 of the federal 1040 tax return, subject to modifications listed at 42 C.F.R. § 435.603(e). The petitioner did not identify any of these adjusted gross income deductions as being applicable here.

The petitioner correctly argued that because she is a seasonal worker, her income for all of 2014 should be considered in determining her BCP eligibility. That income was considered here, and she was still over the BCP income limit when the 2014 figures are used. The petitioner may wish to consider applying on the federal Marketplace within 60 days of the June 1 discontinuance. At her income level, she should qualify for a substantial subsidy to help pay her insurance premiums.

CONCLUSIONS OF LAW

1. The petitioner's household income exceeds the relevant limit for adult BCP eligibility.
2. The Department correctly discontinued the petitioner's BCP.

THEREFORE, it is

ORDERED

That the 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 8th day of July, 2015

\sNancy J. Gagnon
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 July 8, 2015.

La Crosse County Department of Human Services
Division of Health Care Access and Accountability