



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/168084

PRELIMINARY RECITALS

Pursuant to a petition filed August 19, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on September 23, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly terminated the petitioner's BadgerCare (BC) Plus benefits effective September 1, 2015.

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

Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter

Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. The petitioner is a household of one.

2. On July 31, 2015 the petitioner completed her six month renewal form (SMRF) for her public assistance benefits. On the form the petitioner reported that she had new employment with [REDACTED]. Previously the petitioner was not working and did not have any income.
3. The agency verified the petitioner's employment with her employer. The petitioner works 39.3 hours per week on average, and is paid \$9 per hour.
4. The petitioner's monthly gross income is \$1,415.58.
5. On August 3, 2015 the agency sent the petitioner a notice stating that her BadgerCare (BC) Plus benefits would terminate effective September 1, 2015 because she was over the program income limit.
6. On August 19, 2015 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

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, at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> (viewed in September 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 currently is \$980.83 monthly for a household of one. *Id.*, § 50.1.

The petitioner does not dispute that her monthly gross income is \$1,415.58. Rather, the petitioner argues that she takes home much less than her gross income amount. She also argues that she works through a temporary service and could be terminated at any point. The program rules require the agency to consider gross, not net income. Thus, the agency's calculations are correct in this case. I further note that if the petitioner loses her employment she may reapply for BC Plus coverage.

The petitioner was also concerned about losing her health coverage as she states that she has a medical condition and requires insurance. As I stated during the hearing, if this is her concern, she may apply to obtain insurance coverage through the marketplace.

CONCLUSIONS OF LAW

The agency correctly terminated the petitioner BadgerCare (BC) Plus benefits effective September 1, 2015.

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 Milwaukee,
Wisconsin, this 24th day of September, 2015

\sCorinne Balter
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 September 24, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability