



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/168521

PRELIMINARY RECITALS

Pursuant to a petition filed September 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 Medical Assistance (MA)/BadgerCare Plus (BCP), a hearing was held on November 25, 2015, by telephone. A hearing set for October 20, 2015, was rescheduled at the petitioner’s request.

The issue for determination is whether the Department correctly denied the petitioner’s adult BadgerCare Plus application due to excess income.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



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Respondent:

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

By: [Redacted] ES Supr.  
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 La Crosse County.

2. Prior to April 2014, the petitioner was certified for adult BCP. Her coverage ended at the time due to a statutory decrease in the income limit for adult BCP. Her minor child remained BCP eligible. The petitioner again requested BCP adult coverage on July 24, 2015, and supplied the needed income verification. The verification from her husband's employer states that he works 40 hours weekly, at \$11.50 an hour, with small amounts of overtime. *See*, Exhibit 3. His monthly gross income works out to \$1,874.50.
3. On August 20, 2015, the Department issued written notice to the petitioner advising that her request for adult BCP was denied. The basis for denial was excess income.
4. The petitioner also receives student financial aid, but that amount is not critical to reaching the decision here.
5. The petitioner has a chronic, congenital medical condition for which she requires constant medication. She has applied for Social Security or MA Disability, and has been denied for lack of sufficient disability.

### 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 March 2015). The petitioner meets the nonfinancial eligibility tests for the program.

The petitioner must also pass an income test. In 2014, the adult income limit was lowered, such that 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 \$980 monthly for a household of one, and **\$1,674.17** for a household of three persons in 2015. *Id.*, § 50.1.

The husband's verified gross income amount of \$1,874.50 exceeds the limit for a group of three. 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. Thus, denial of the adult application was correct.

The petitioner may wish to contact ABC for Health, a nonprofit health advocacy group, for help with her Social Security Disability appeal and/or a Healthcare Marketplace application (especially, to look into a subsidy to help pay the deductible). ABC can be reached at (608)261-6939 x 210.

### CONCLUSIONS OF LAW

1. The petitioner's household income exceeds the relevant limit for adult BCP eligibility.
2. The Department correctly denied adult BCP coverage for the petitioner and her husband.

**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 27th day of November, 2015

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\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 November 27, 2015.

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