



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/170171

PRELIMINARY RECITALS

Pursuant to a petition filed November 17, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Dane County Department of Human Services in regard to Medical Assistance, a hearing was held on December 10, 2015, at Madison, Wisconsin.

The issue for determination is whether the respondent correctly denied petitioner’s BadgerCare Plus (BCP) application due to income exceeding program limits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: 
Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Dane County.
2. Petitioner applied for BCP benefits on October 19, 2015. His application was denied by the respondent on November 17, 2015.

3. Petitioner's November, 2015 income included earned income of \$1,428.23 and Unemployment benefits in the amount of \$1,591.00.

DISCUSSION

Prior to April 1, 2014, the income limit for BC+ was 200% of the FPL. State law changed effective April 1, 2014 following the passage of 2013 Wisconsin Act 20. As of that date the limit for caretaker parents was reduced to 100% of the FPL, which, for a 2-person household is \$1,327.50. See Wis. Stat., §49.471(4)(a)4.b for the new law, and the BC+ 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 changes occurred as of April 1, 2014 for new applicants, and when current recipients completed reviews. Under the new MAGI rules, parents' financial eligibility is determined along with their spouses and any children who are claimed as dependents on the parents' tax returns. BC+ Handbook § 2.3.2.1.

The county agency correctly determined that the petitioner's gross monthly income in the month of November, 2015, was \$3,019.23. That was based upon petitioner's receipt of a final earned income paycheck in the amount of \$1,428.23, plus Unemployment benefits in the amount of \$1,591. See 7 C.F.R. § 273.10(c)(3). His household was ineligible at application, and the agency correctly denied his application.

Petitioner argues that the earned income should not be counted for the month of November, since the income was derived from work actually performed in October, 2015. BadgerCare policy directs:

All taxable income is counted when determining BadgerCare Plus eligibility under MAGI rules. Social Security income is also counted under MAGI rules. See [16.2](#) for the list of income that is not counted. These rules apply to families that are filing taxes and those who are not.

BadgerCare Plus Eligibility Handbook, § 16.1.3.

The month that the income is received is the month that the income is counted; had petitioner's final paycheck been received in October, it would not have counted against his November benefits. As such, I find that the respondent correctly counted the income for the month in which it was received.

CONCLUSIONS OF LAW

That the county agency correctly denied the petitioner's October 19, 2015, application for BCP due to income in excess of program limits.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein be, and the same hereby 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 29th day of December, 2015

\sPeter McCombs
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 December 29, 2015.

Dane County Department of Human Services
Division of Health Care Access and Accountability