



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/169156

PRELIMINARY RECITALS

Pursuant to a petition filed September 30, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance, a hearing was held on November 12, 2015, at Racine, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner was not eligible for BC+ for October, 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: Kelly Kosloske

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. On September 4, 2015, the Petitioner completed a Six Month Report Form. She reported employment with [REDACTED]. She submitted two pay statements dated August 21, 2015 and August 28, 2015.

3. On September 18, 2015, the agency issued a Notice of Decision to the Petitioner informing her that effective October 1, 2015, the Petitioner's BC+ benefits would end due to income exceeding the program limit. The agency calculated income for the Petitioner of \$1,297.76/month based on her pay statements.
4. On September 21, 2015, the Petitioner submitted additional pay statements. The statements reported wages as follows:

Pay Period	Hours	Pay Rate	Gross Wages
8/17/15 – 8/23/15	40 hours	8.00/hour	\$320.00
	.5 hours (overtime)	12.00/hour	\$ 6.00
8/24/15 – 8/30/15	40 hours	8.00/hour	\$320.00
8/31/15 – 9/6/15	40 hours	8.00/hour	\$320.00
9/7/15 – 9/13/15	16 hours	8.00/hour	\$128.00
	8 hours (holiday)	8.00/hour	\$ 64.00

5. On September 23, 2015, the agency issued a Notice of Decision to the Petitioner informing her that effective October 1, 2015, the Petitioner's BC+ benefits would end due to income exceeding the program limit. The agency calculated income for the Petitioner of \$1,158.24 for October, 2015.
6. On October 26, 2015, Petitioner contacted the agency to report that she would be moving on November 1, 2015.
7. On or about November 17, 2015, the Petitioner reported that her employment would end on November 30, 2015.
8. On November 18, 2015, the Petitioner submitted a new application. She reported monthly gross earned income of \$563.17.
9. On November 20, 2015, the agency issued a Notice of Decision to the Petitioner informing her that effective November 1, 2015 she was enrolled in BC+.

DISCUSSION

Prior to April 1, 2014, the state had an MA program for childless adults called the BC+ Core program with an income limit of 200% of the Federal Poverty Level (FPL). The program was limited to only a small number of potentially eligible participants due to enrollment limits. State law changed effective April 1, 2014. As of that date all childless adults are eligible for BC+ but with the income limit reduced to 100% of the FPL, which, for a one-person household, is currently \$980.83/month. See Wis. Stat., §49.471(4)(a)4b for the new law, and the MA Handbook, Appendix 50.1 for the FPL.

The Petitioner's gross income at the time of her application was above 100% of the FPL making her ineligible for BC+ for October, 2015. There was discussion at the hearing about the possibility of the Petitioner being eligible for "gap filling" coverage. Under this policy, explained in DHS Operations Memo 14-41, an individual may be found to be eligible for BC+ if gross monthly income, as determined by the agency, is above 100% FPL but the Marketplace finds the individual's income to be below 100% FPL based on the different ways that the two entities calculate income.

In this case, the Petitioner had not filed an application with the Marketplace by the time of the hearing. Therefore, no determination had yet been made whether the Marketplace would find her income to be

above or below 100% FPL. By the time the Petitioner filed a new application on November 18, 2015, her earned income had fallen under 100% FPL by BC+ standards and she was found to be eligible for BC+ effective November 1, 2015.

Based on the evidence and circumstances presented, I conclude that the agency properly determined that the Petitioner was over the income limit of \$980.83 for the month of October, 2015 and therefore was not eligible for BC+ for that month.

CONCLUSIONS OF LAW

The agency properly determined that the Petitioner was over the income limit of \$980.83 for the month of October, 2015 and therefore was not eligible for BC+ for that month.

THEREFORE, it is **ORDERED**

That the Petitioner's appeal be 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.

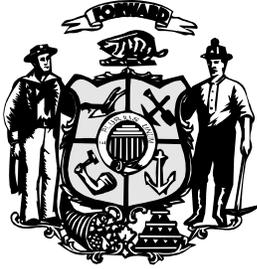
APPEAL TO COURT

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 5th day of January, 2016

\sDebra Bursinger
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 January 5, 2016.

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