



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/172119

PRELIMINARY RECITALS

Pursuant to a petition filed February 16, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane County Department of Human Services in regard to Medical Assistance (MA), a hearing was held on April 26, 2016, at Mauston, Wisconsin.

The issue for determination is whether the agency erred in its determination of petitioner’s liability for a \$3,457 medical assistance overpayment.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

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

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

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Juneau County.
2. Petitioner was enrolled in BC+ effective 4/1/14 as a single adult without dependents. At the time of her 4/28/14 application, petitioner reported no income.

3. On 4/29/14 the agency provided notice to petitioner that she was required to inform the agency if her income went over \$972.50.
4. In May 2014 petitioner became employed at [REDACTED] (aka: [REDACTED]). This employment was not reported to the agency.
5. Petitioner was ultimately hired as a permanent employee in August 2014, this was not reported to the agency.
6. The agency learned of income reported to the state through the state wage match which indicated a discrepancy with the income the agency had budgeted on the BC+ case, which was zero income.
7. Petitioner's monthly gross income exceeded the eligibility threshold in every month from May 2014 through May 2015. She would not have been eligible for BC+ for those months.
8. The agency determined an overpayment in the amount of \$3,457 from 7/1/14 to 5/31/15.
9. Petitioner appealed.

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. The petitioner meets the nonfinancial eligibility tests for the program.

The petitioner must also pass an income test. The income limit for adults went lower effective April 1, 2014: an eligible adult 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 \$980.83 monthly for a household of one. *Id.*, § 50.1.

The Department calculated that petitioner exceeded the reporting requirement in May 2014 and would have become ineligible for BC+ effective June 2014. The record reflects that petitioner's income far exceeded the BC+ eligibility limit for the next year consistently.

Petitioner's arguments at hearing involved initial denial of the [REDACTED] income. Later in the hearing petitioner recalled the income and did not dispute the employment or figures. Petitioner then argued that the agency should have cut off her benefits when her income exceeded the limit. But, the responsibility for tracking petitioner's income is petitioner's. This was explained to petitioner when she enrolled in BC+.

CONCLUSIONS OF LAW

The agency did not err in its determination of the overpayment.

THEREFORE, it is ORDERED

That this appeal 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 1st day of June, 2016

\sJohn P. Tedesco
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 June 1, 2016.

Dane County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability