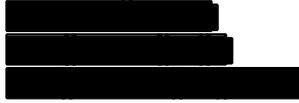




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: BCS - 175578

PRELIMINARY RECITALS

Pursuant to a petition filed on July 18, 2016, under Wis. Stat. § 49.45(5)(a), to review a decision by the Dane Cty. Dept. of Human Services regarding Medical Assistance (MA), a hearing was held on September 6, 2016, by telephone.

The issue for determination is whether petitioner is eligible for BC+ enrollment retroactively for the months of May and June 2016.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: [Redacted]
Dane Cty. Dept. 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 Dane County.
2. Petitioner was enrolled in BC+ along with her child.

3. On 3/31/16, petitioner reported a change in hours at her existing employment at [REDACTED].
4. Petitioner was informed that she needed to provide verification of the new hours by 4/12/16.
5. On 4/11/16, petitioner reported new employment to her W-2 agency.
6. The required verification was not received by 4/12/16.
7. On 4/18/16 the agency sent a notice informing petitioner that her BC+ enrollment would be closing effective 5/1/16.
8. The employer verification was received from [REDACTED] on 4/21/16 showing the end of employment on 4/21/16.
9. On 4/29/16 employer verification was received from [REDACTED] reflecting the beginning of employment on 5/2/16 at 30 hours per week. The rate of pay was reported as \$11.50 per hour.
10. Based on the new employment, the agency budgeted new monthly gross income at \$1380 per month.
11. Petitioner's BC+ coverage ended on 5/1/16.
12. Petitioner's BC+ enrollment was initiated once again as of July 1, 2016 after a drop in income that was reflected in pay stubs.
13. Petitioner appealed the lack of coverage for May and June.

### **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. Wis. Stat. § 49.45(23); 2013 Wisconsin Act 116, § 29, for effective date; *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1.

The income limit for adults went lower effective April 1, 2014: for coverage of an adult, an eligible household 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 \$1,335 monthly for a household of two. *Id.*, § 50.1.

The Department calculated monthly gross income for this household of \$1,380 after seeing the EVF. From gross income the Department is allowed to subtract only those income tax deductions listed on lines #23 through #35 of the federal 1040 tax return, subject to modifications listed at 42 C.F.R. § 435.603(e). No applicable deductions were identified here. In actuality, the income received by petitioner as reflected on the paystubs was even higher than what was budgeted.

At hearing, petitioner argued that she is eligible now for BC+ and wishes to have her re-enrollment backdated to cover May and June. But, backdating is not possible in this case because petitioner's actual pay stubs show that she earned \$1,601.93 in May 2016 and \$1,670.30 in June 2016. She exceeded the income threshold and was earning too much to be eligible for BC+. There is no provision that allows backdating for period in which the petitioner was not financially eligible for the program.

### **CONCLUSIONS OF LAW**

The agency did not err in denying BC+ eligibility for petitioner in May and June 2016 as her income exceeded the income limit.

**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, **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 6th day of October, 2016

\s \_\_\_\_\_  
John P. Tedesco  
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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 6, 2016.

Dane Cty. Dept. of Human Services  
Division of Health Care Access and Accountability