



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MGE/170847

PRELIMINARY RECITALS

Pursuant to a petition filed December 16, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Sheboygan County Department of Human Services in regard to Medical Assistance, a hearing was held on January 21, 2016, at Sheboygan, Wisconsin.

The issue for determination is whether the Sheboygan County Department of Human Services (the agency) correctly ended the Petitioner's Medical Assistance benefits, effective December 1, 2015.

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: [Redacted], Economic Support Supervisor
Sheboygan County Department of Human Services
3620 Wilgus Ave.
Sheboygan, WI 53081

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Sheboygan County.
2. The Petitioner completed a renewal on October 30, 2015. (Testimony of Ms. [Redacted])

3. On November 2, 2015, the agency sent the Petitioner a Notice of Proof Needed, for the Medicaid program, asking for verification of his checking account balance. The verification was due nine days later on November 11, 2015. (Exhibit 8)
4. On November 2, 2015, the agency sent the Petitioner a notice indicating that, effective December 1, 2015, he would not be enrolled in BadgerCare+ because he was over the income limit. The notice further advised the Petitioner that he would not be enrolled in Medicaid, either. (Exhibit 3)
5. On December 2, 2015, the agency sent the Petitioner another notice, indicating that he would not be enrolled in either Medicaid or BadgerCare+, as of December 1, 2015, because he was over the income limit. (Exhibit 2)
6. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on December 16, 2015. (Exhibit 1)
7. Petitioner's sole source of income is from [REDACTED]. His gross monthly payment is \$1,333.00 per month and he has \$323.00 deducted for child support. (Exhibits 3 and 5)
8. Petitioner is a household of one person. He pays rent in the amount of \$350.00 per month. (Testimony of Ms. [REDACTED], Exhibit 3)

### DISCUSSION

#### *Medicaid Income Limits*

Social Security income is considered when determining eligibility for healthcare/Medicaid. *Medicaid Eligibility Handbook (MEH) §15.4.10*. In determining eligibility there is a general deduction from reported income of \$20. *MEH §15.3.8 General Income Disregard*.

The categorically needy income limit is \$572.45 + actual shelter costs up to \$244.33. (For Petitioner this limit would be \$572.45 + \$244.33 = \$816.78) *MEH §39.4.1 - EBD Assets and Income Table*. The medically needy income limit for a household of one is \$591.67. *Id.*

If an individual does not meet the categorically needy income limit, his income is compared to the medically needy income limit. If the individual's income falls between the two income limits, he is eligible for Medicaid. *MEH §24.1*

In determining an individual's counted income, a \$20.00 general income deduction is allowed, as is a deduction for special exempt income, such as child support payments. See *MEH §40.1 – Worksheet 6; MEH §§ 15.7.2 and 15.3.8*

Petitioner did not dispute the fact that he receives \$1333.00 per month in Social Security Retirement Income. He is entitled to the \$20.00 general disregard and a deduction of \$323 for child support payments. Thus, his countable income works out to be:

\$1333.00
-\$20.00
-\$323.00
\$990 Countable Income

This is over the \$816.78 categorically needy income limit and it is over the \$591.67 medically needy income limit. Thus, the agency correctly ended the Petitioner's Medicaid benefits.

“When a Medicaid applicant is ineligible for Medicaid solely because he has income that exceeds the Medicaid medically needy income limit, he can become eligible by meeting the Medicaid deductible.”

*MEH §24.2* “The Medicaid deductible is the group’s total excess monthly income over the 6 consecutive months of the Medicaid deductible period.” *Id.* “Excess monthly income” is defined as the amount above the medically needy income limit. *Id.* In Petitioner’s case the calculation would be as follows:

$$\$990 - \$591.67 \times 6 = \$2389.98$$

So, to regain eligibility for Medicaid, the Petitioner would have to meet a \$2389.98 deductible over a six month period.

*BadgerCare+ Income Limits*

Effective April 1, 2014, an adult must have household income below 100% the Federal Poverty Level, in order to be eligible for the BadgerCare+ health plan, and all taxable income must be counted. *BadgerCare+ Eligibility Handbook (BEH §16.1 and §16.1.3)*

Under *BEH §16.3.2*, certain pre-tax deductions are allowed for:

1. Health Insurance premium payments
2. Health Savings Account contributions
3. Retirement Contributions
4. Parking and Transit costs
5. Child Care Savings Account Contributions
6. Group Life Insurance premiums

These deductions do not appear to apply to the Petitioner.

Under *BEH §16.3.3*, other deductions found on page 1 of IRS form 1040 are allowed:

1. Student Loan Interest
2. Higher Education Expenses
3. Spousal Support, Alimony or Maintenance
4. Self-employment Tax Deduction
5. Teachers’ Tax Deductible Expenses
6. Self-Employed SEP, or Simple or Qualified Plan Contributions
7. Penalties for Early Withdrawal of funds
8. Performing Artists Tax-deductible Expenses
9. Military Reserve Members’ Tax-deductible Expenses
10. Out of pocket costs for a job-related Move
11. Loss from Sale of Business Property
12. Individual Retirement Account (IRA) contributions
13. Fee-based Official Tax-deductible Expenses
14. Domestic Production Activities Deductions
15. Allowable Write-in Expenses

None of these deductions apply to the Petitioner, either.

While the Petitioner does pay child support, under the new MAGI rules, which took effect in 2014, child support payments are not allowed as an income deduction. *BEH §16.3.1*

Thus, Petitioner’s countable income for BadgerCare+ is \$1333.00 per month, the full taxable amount of his Social Security Income.

100% of FPL for an assistance group size of one is \$980.83. *BEH §50.1*. Petitioner's income of \$1333 per month was over the \$972.50 - 100% FPL income limit. As such, the agency correctly determined that the Petitioner was not entitled to BadgerCare+ benefits.

**CONCLUSIONS OF LAW**

The Sheboygan County Department of Human Services (the agency) correctly ended the Petitioner's Medical Assistance benefits, effective December 1, 2015.

**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**

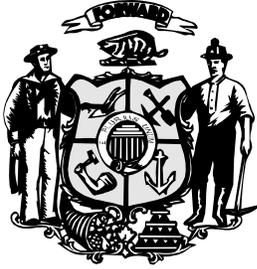
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those 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 Milwaukee,  
Wisconsin, this 26th day of January, 2016

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\sMayumi M. Ishii  
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 January 26, 2016.

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