



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/171390

PRELIMINARY RECITALS

Pursuant to a petition filed January 12, 2016, under Wis. Stat. § 49.45(5)(a), to review a decision by the Fond Du Lac County Department of Social Services in regard to Medical Assistance, a hearing was held on February 25, 2016, at Fond Du Lac, Wisconsin.

The issues for determination are whether Petitioner's BadgerCare+ premium for December 2015 may be refunded to her and whether her son should have been BadgerCare+ eligible in December 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]
Fond Du Lac County Department of Social Services
50 N Portland St
Fond Du Lac, WI 54935

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Fond Du Lac County.
2. Petitioner filed this appeal seeking a return of a BadgerCare+ premium she paid for the month of December 2015 and Medicaid/BadgerCare+ payment for a medical bill for her son for a December 2015 medical service.
3. Petitioner was sent a Notice of Decision dated September 23, 2015 that informed her that her BadgerCare+ was in extension status as her income was above BadgerCare+ income limits. It

also informed her that she had a premium due for herself for BadgerCare+ coverage in the amount of \$339.00.

- 4. Petitioner paid her BadgerCare+ premium of \$339.00 on time for the months of October, November and December 2015.
- 5. Petitioner was notified that she had to complete a review for her son for BadgerCare+ by the end of November 2015. Petitioner did submit the review but the agency sought verification of financial information. Some information was submitted and that led to the agency requesting her income tax records. Those were not submitted and the BadgerCare+ coverage for Petitioner's son ended November 30, 2015.
- 6. After some interaction with the agency about the financial records and conflicting information about whether BadgerCare+ coverage was or was not in place Petitioner asked that the agency end her BadgerCare+ coverage. This was on or about December 14, 2015. At that point the premium had been paid and coverage was in place for December 2015 for Petitioner so the agency ended BadgerCare+ coverage for Petitioner as of January 1, 2016.

DISCUSSION

Per the BadgerCare+ Eligibility Handbook (BEH):

...

A parent/caretaker relative or pregnant woman whose eligibility is determined using MAGI rules can enter an Extension due to an increase above 100% FPL in the assistance group's earned income, spousal support, or both. The children, stepchildren, and NLRR children of the parent/caretaker will also enter the Extension at this time, provided they are under age 19, living with the parent/caretakers, and meet the income requirements outlined in section 18.1.3.

...

BEH, §18.1.1.

Further:

...

All dependent children, stepchildren and NLRR children who are eligible under MAGI rules and whose parent or caretaker becomes eligible for an Extension under MAGI rules will be eligible for the same Extension provided that they are eligible for BadgerCare Plus in the month prior to the start of the Extension and:

- Have AG income under 306% FPL and are under age 1
- Have AG income under 191% FPL and are age 1 through age 5
- Have AG income under 156% FPL and are age 6 through age 18

Conditions:

- 1. Children do not have to be eligible for BadgerCare Plus for 3 of the past 6 months.
- 2. The child's AG income does not have to be below 100% FPL at the time the Extension starts.
- 3. CENs are not eligible for Extensions.
- 4. A child who is currently in an Extension is not eligible for a new extension.
- 5. If a parent's income decreases below 100% FPL the child's extension continues.
- 6. Once a child is in an Extension, the child does not lose the extension for any reason except for death, moving out of Wisconsin, or turning 19 while in an earned income Extension.

...

BEH, 18.1.3.

Given these provisions in the BadgerCare+ Eligibility Handbook, it is not clear to me why the BadgerCare+ eligibility for Petitioner’s son was subject to a review at all. Further, as Petitioner herself was eligible through December 2015 because of the extension he should also have been eligible. I also note that over verification is to be avoided. *BEH, §9.8, #1*. If the agency had enough financial information from Petitioner to establish an extension and a premium, it is not clear why it did not have enough to process the review Petitioner did submit for her son.

As for the return of the premium, the BEH describes the only circumstances that permit a return of premiums:

19.7.1 Refunds

Contact the BadgerCare Plus Unit at 1-888-907-4455 to issue a refund if the premium was paid in advance and the premium is for a month in which the:

1. Individual/family was ineligible for BadgerCare Plus.
2. The group’s countable income decreased and they no longer owe a premium, if the income change was reported timely.
3. A lower premium amount is due to a change in circumstances which was in effect for the entire month as long as the change was reported within ten days of the date it occurred. The lower premium amount due is the first day of the month in which the change was reported. A refund for the difference will be issued.

...
BEH, §19.7.1

CONCLUSIONS OF LAW

1. That Petitioner’s son was BadgerCare+ eligible in December 2015 as his mother, on a BadgerCare+ extension and with premium timely paid, was still BadgerCare+ eligible in that month.
2. That Petitioner’s December 2015 premium cannot be refunded as Petitioner did have BadgerCare+ coverage for that month.

THEREFORE, it is ORDERED

That this matter is remanded to the agency with instructions to restore the BadgerCare+ eligibility for Petitioner’s son for December 2015. This is to be done within 10 days of the date of this Decision. (Petitioner may then ask the provider to bill Medicaid for services provided to her son in December 2015).

In all other respects, 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.

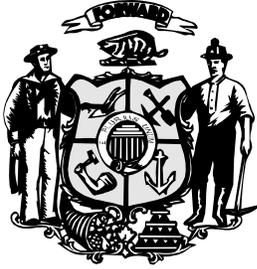
APPEAL TO COURT

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 Milwaukee,
Wisconsin, this 30th day of March, 2016

\sDavid D. Fleming
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 March 30, 2016.

Fond Du Lac County Department of Social Services
Division of Health Care Access and Accountability