



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/172138

PRELIMINARY RECITALS

Pursuant to a petition filed February 19, 2016, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA), a hearing was held on April 12, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's BadgerCare+ was correctly denied because of income in excess of BadgerCare+ income limits.

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]
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Milwaukee County.
2. Petitioner's appeal states that she is appealing the denial of BadgerCare+ Medicaid for December 2015.
3. Petitioner applied for healthcare benefits in November 2015. Ultimately the request was denied for November and December 2015 but approved for January 2016.

4. The reason for the denial of BadgerCare+ Medicaid for November and December was that Petitioner had income in excess of BadgerCare+ Medicaid income limits.
5. Petitioner's group size is 1. The BadgerCare+ Medicaid income limit for 1 is \$980.83.
6. Petitioner was working in late 2015. She had gross income in November 2015 of \$939.20 and \$1042.92 in December 2015.
7. Petitioner is a student and received student aid for the fall semester of 2015. After expenses there was \$542.00 remaining. Divided by the months from August through December 2015, 5 months, this is \$108.00 per month.
8. Total gross income for Petitioner for the months of November and December 2015 was \$1047.00 and \$1151.00, respectively.

### DISCUSSION

BadgerCare+ is Wisconsin's Medicaid program for those who are not elderly or disabled. Effective April 1, 2014, Wisconsin state law changed and lowered the amount of adjusted gross income a household can have and still be eligible for benefits to 100% of the Federal Poverty Level for adults and 300% for children. *Wis. Stat. § 49.471(4)(a)*. This change was to be effective January 1, 2014 but was held off until April 1 to assure coordination with other changes in healthcare options; especially the Affordable Care Act. 100% of the Federal Poverty Level for a 1 person household was \$980.83 per month as of February 1, 2015. *BadgerCare+ Eligibility Handbook (BEH), §50.1*. All households have financial eligibility for BadgerCare+ Medicaid determined using modified adjusted gross income rules. *See BEH, §16.1.1*.

Under modified adjusted gross income rules the following deductions from page 1 of Federal Tax Form 1040 are allowed:

1. Student Loan Interest
  2. Higher Education Expenses
  3. Self-employment Tax Deduction
  4. Spousal Support, Alimony or Maintenance
  5. Teachers' Tax-Deductible Expenses
  6. Self-employed SEP, 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 Deduction
  15. Allowable Write-in Expenses
- See BEH, §16.3.3.*

Further, the following pretax payroll deductions are allowed:

1. Health Insurance premium payments, including pre-tax premium payments for medical, dental or vision plans
  2. Health Savings Account (including flexible spending accounts) contributions
  3. Retirement contributions
  4. Parking & Transit costs
  5. Child Care Savings Account contributions
  6. Group Life Insurance premium payments
- See BEH, §16.3.2.*

The following is also applicable here:

**25. Student Financial Aids**

Under non-MAGI Rules, student financial aids are not counted as income regardless of source. This includes student loans, grants, scholarships and work study, and any financial assistance provided by a public or private organization for the purpose of obtaining an education. Disregard the full amount of student financial aids, including any amounts earmarked for living expenses. Count income from an internship or assistantship that is not part of work study or another student aid as earned income. Count Income from an internship or assistantship that is not part of work study or another student aid, counts the income from the internship or assistantship as earned income.

**Example 4:** Clark is a journalism student. The University School of Journalism has arranged an internship for him to work 10 hours a week at The Daily Planet. The newspaper pays him \$30 a week. Count this as earned income when you are determining Clark's eligibility.

Under MAGI Rules, work study income and any income from an internship or assistantship should be counted as earned income. Grants, scholarships, fellowships and any additional financial assistance provided by public or private organizations that exceed the cost of tuition, books and mandatory fees are counted as unearned income and should be pro-rated over the period of time they are intended to cover. Student loans are not counted as income irrespective of what the loan is used to pay for.

...

*BEH, §16.2, # 25.*

There evidence presented here does indicate that Petitioner had gross income in excess of \$980.83 in December 2015 thus her request for benefits for that month was correctly denied.

**CONCLUSIONS OF LAW**

That Petitioner's BadgerCare+ was correctly denied for December 2015 as the presented evidence demonstrates that Petitioner's gross income was over the BadgerCare+ income limit of \$980.83 in December 2015.

**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 Milwaukee,  
Wisconsin, this 3rd day of June, 2016

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\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 June 3, 2016.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability