



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS- 173453

PRELIMINARY RECITALS

On April 5, 2016, the above Petitioner filed a hearing request under Wis. Stat. § 49.45(5)(a), to challenge a decision by the Milwaukee Enrollment Services regarding Medical Assistance. The hearing was held on May 10, 2016, via telephone.

The issue for determination is whether the BadgerCare+ of Petitioner's daughter was correctly discontinued because she is not exempt from the requirement that she be insured through Petitioner's employer.

The following parties appeared:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services

[REDACTED]

Milwaukee Enrollment Services
1220 W Vliet St
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 filed this appeal to contest the March 1, 2016 discontinuance of her minor daughter's BadgerCare+ eligibility.

3. Petitioner's household size is 2 - Petitioner and her daughter.
4. The reason for the discontinuance of Petitioner's daughter's BadgerCare+ eligibility was that she had access to health insurance through Petitioner's employer plan and that the employer pays 80% of the premium.
5. Petitioner works part time at [REDACTED]. She submitted paycheck stubs for January 2016 and earned \$2347.71 in gross wages that month.
6. Petitioner submitted information from her employer that shows that basic health coverage for herself and her child (there is no policy for the child alone) has a premium of \$1021.86 per month. A part time employee has to pay \$150.00 toward that premium – this is 14.7% of the total premium.
7. Petitioner does pay for her own health insurance through the employer on an employee only plan.

DISCUSSION

The agency concluded that Petitioner's daughter is not BadgerCare+ eligible based on the following provision from the BadgerCare+ Eligibility Handbook (BEH):

7.3.2 The 80 Percent Current Access Test

Children and BadgerCare Plus Prenatal Program members with access to health insurance, including access due to a qualifying event, through an employed family member who is currently living in the household are not eligible for BadgerCare Plus benefits if:

1. The access is to a HIPAA health insurance plan through a current employer for which the employer pays at least 80% of the premium or the State of Wisconsin's health care plan (regardless of plan type, or premium amount contributed by state or local government); and
2. The applicant /member is a child under age 19 and the child is not exempt; and
3. The coverage would begin within three calendar months following:
 - a. The BadgerCare Plus application filing date ; or
 - b. Annual review month; or
 - c. Employment start date

The child or BadgerCare Plus Prenatal Program member who could have been covered by the health insurance plan are ineligible for BadgerCare Plus benefits. Children under 19 years of age can become eligible by meeting a deductible. (See Ch. 17)

There are no good cause reasons for not enrolling in a health insurance plan when an individual has current access.

...
BadgerCare+ Eligibility Handbook (BEH), §7.3.2, examples omitted.

Among the individuals exempt from this health insurance access and coverage requirement are children ages 6-18 where household income is less than 150% of the Federal Poverty Level. *BEH, §7.1.1.* And, again, if not exempt a child under 19 can become eligible by meeting a deductible. *BEH, §7.3.2.*

150% of the Federal Poverty Level (FPL) for a group of 2 is \$2002.50 as of February 1, 2016. *BEH, §50.1.*

Based on the income Petitioner earned in January 2016 her daughter is not exempt as household income was in excess of 150% of the FPL. Information from Petitioner's employer was submitted after the rehearing and that information indicated that Petitioner works 24 hours per week at \$16.81; this comes to \$1613.76 per month. Fluctuating income can be averaged. *See BEH, §16.6.*

I am concluding that the discontinuance was correct but suggest that, if income fluctuates, that Petitioner reapply for BadgerCare+ for her daughter and submit a wide range of paystubs to demonstrate the fluctuation.

CONCLUSIONS OF LAW

That the agency correctly discontinued the BadgerCare+ of Petitioner's daughter because with household income over 150% of the FPL she was not exempt from the requirement that she use Petitioner's employer's healthcare coverage as it pays more than 80% of the premium.

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.

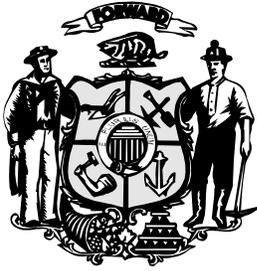
APPEAL TO COURT

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 Milwaukee,
Wisconsin, this 5th day of July, 2016

\s _____
David 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 July 5, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability