



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]

DECISION

BCB/141862

PRELIMINARY RECITALS

Pursuant to a petition filed June 21, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance, a hearing was held on July 31, 2012, at Racine, Wisconsin.

The issues for determination are whether the agency correctly determined Petitioner's household income and whether Petitioner was responsible for paying a BadgerCare+ premium for the month of July 2012.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Kathy Christman

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. Petitioner's BC+ case was in extension status that expired at the end of July 2012.

3. Petitioner's household consists of three people; herself, her 18-year-old daughter and her six-year-old son.
4. Petitioner's daughter was working at the time of the review.
5. Petitioner's BC+ case was reviewed at the end of the extension and the agency determined the following income was attributable to Petitioner's household:

Income	Before depreciation exclusion	After depreciation excluded
Petitioner rental	\$11,042/12= \$ 920.17	\$ 2,684 /12= \$ 223.67
Petitioner Sub S	\$23,509 /12= \$1959.08	\$19,958/12= \$1663.17
Daughter	\$ 584	\$ 584
Child Support	\$ 400	\$ 400
TOTALS:	<u>\$3863</u>	<u>\$ 2871</u>

6. Based on income of \$3863 agency determined that Petitioner had a premium of \$297 and that her children had a premium of \$60 each.
7. Petitioner's daughter subsequently obtained additional employment with income of \$876.00 per month but income was reduced at her other job by \$276 per month. This made household income \$4463.00 in August 2012.
8. The following Federal Poverty Levels (FPL) applicable here for a household of 3 are: 133% = \$2115.80 and 200% = is \$3181.67.

DISCUSSION

When a BadgerCare+ household's income exceeds 100% of the federal poverty level for its group size due to an increase in earned income that household is granted a BadgerCare+ extension of 12 months. Under prior policy, while under the extension, the household does not have to pay premiums or be concerned with employer health insurance coverage access rules. *BadgerCare+ Eligibility Handbook (BEH)*, §18.1.1. At the end of the extension regular BadgerCare+ policies were applied. This has, however, changed.

Effective July 1, 2012 the following individuals must pay a premium for BadgerCare+ benefits:

- ...
1. Children in families with income over 200% of the Federal Poverty Level (FPL),
 2. Parents, stepparents and caretaker relatives with income over 133% through 200% of the FPL,
 3. Parents, stepparents and caretaker relatives with income over 133% in a BC+ Extension, **and**
 4. Self-employed parents, stepparents and caretaker relatives with income above 200% of the FPL before subtracting the depreciation but below 200% of the FPL after subtracting the depreciation.

...
BEH, §19.1.

Here Petitioner questions why her 18-year-old daughter's income must be included for purposes of determining eligibility and premiums and she also questions the use of income from her business that she believes should be allowed to stay in the business rather than being attributable to her household.

In order to determine financial eligibility for BadgerCare+ one must first determine who is in the BadgerCare+ test group. A parent living with their child under age 19 must be included in the same BC+ test group. *BadgerCare+ Eligibility Handbook (BEH)*, §2.2.1. Petitioner's 18-year-old daughter lives in Petitioner's home and must, therefore, be include in the BadgerCare+ test group until age 19. This makes

Petitioner's BadgerCare+ test group size 3 people. Further, the earned income of all household test group members over age 18 must be counted for the purpose of determining eligibility and premiums. *BEH, §16.4.*

Thus, under the new policy, for July 2012 Petitioner was required to pay a premium as a parent with a BadgerCare+ extension and income in excess of the 133% of the FPL. After that she would have to pay a premium as a self-employed parent. 200% of the Federal Poverty Level (FPL) is \$3181.67 for a group of 3. *See BEH, §50.1.* 133% of the FPL for a household of 3 is \$2115.80 (\$ x 1.33). *BEH, §50.1.* A self-employed person must pay a premium if income is over 200% of the FPL before subtracting depreciation and under 200% with depreciation included. Petitioner falls in this category and, thus, owes a premium. Children under age 19 are typically BadgerCare+ eligible but where income is over 200% of the FPL, a premium is due for the children in the group. *BEH, §19.1.*

As noted above, the earned income of all eligible individuals in the household over age 18 is counted. *BEH, §16.4.* As for Petitioner's business income, the BEH does direct that for a Sub-S corporation that income from the IRS forms 1120S and Schedule K-1 be used to determine income. *BEH, §16.4.3.2.2.* Further, rental income is taken from IRS Schedule E. *BEH, §16.4.3.1.* Depreciation is specifically disallowed as a deduction and must be added back to income. *BEH, §16.4.3.2.3.* I conclude, therefore, that the agency correctly used Petitioner's business and rental income in determining household income.

Finally, with the income here (\$3863) the premium is 7.7 % of the household income or \$297.00 for Petitioner for July 2012. *See BEH, §48.1.2.* As of August 1, 2012 Petitioner is no longer BadgerCare+ eligible, however, as the income limit for adult eligibility is 200% (\$3181.67) of the FPL. *BEH, §16.1.* Children do remain BadgerCare+ eligible but with a premium.

CONCLUSIONS OF LAW

1. That the agency has correctly determined Petitioner's household income.
2. That a program change effective July 1, 2012 required payment of a BadgerCare+ premium.
3. That the agency correctly determined the amount of Petitioner's July 2012 BadgerCare+ premium.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 12th day of October, 2012

David D. Fleming
Administrative Law Judge
Division of Hearings and Appeals

c: Racine County Department of Human Services - email
Department of Health Services - email



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 12, 2012.

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