



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

In the Matter of

[REDACTED]

DECISION

BCB/142199

**PRELIMINARY RECITALS**

Pursuant to a petition filed July 9, 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 August 21, 2012, at Racine, Wisconsin.

The issue for determination is whether the agency properly imposed a premium on petitioner’s Medical Assistance coverage.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Appearing with petitioner

[REDACTED]

Respondent:

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

By: Kathy Christman, Lead FEP  
Racine County Department of Human Services  
1717 Taylor Ave  
Racine, WI 53403-2497

**ADMINISTRATIVE LAW JUDGE:**

Michael A. Greene  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. Petitioner was receiving Medical Assistance (MA) when her housemate, [REDACTED] was established as the father of her child.

3. Petitioner's eligibility for MA was reestablished using [REDACTED]'s income in addition to petitioner's. Under Operations Memorandum 12-25 (April 27, 2012), petitioner would be subject to a premium as household income exceeded 133% of the federal poverty line.
4. On June 11, 2012, the agency sent petitioner a notice of decision advising her that she would be required to pay a premium of \$372 per month beginning with July 2012 (Exhibit 1). Petitioner stated that she had changed employment and that her income had decreased and on June 26, 2012 the agency mailed a second notice of decision advising her that her premium would be \$256 per month (Exhibit 2). The lower premium was made effective July 1, 2012 (Exhibit 3).

### DISCUSSION

Two questions present themselves in this appeal. The first is whether it was appropriate to include [REDACTED]'s income when determining whether and under what conditions petitioner would be eligible for MA. The BadgerCare Plus test group includes a primary person and all other members of the household who stand in certain defined relationships to that person, *BadgerCare + Eligibility Handbook*, Ch 2., ¶2.2. Petitioner qualifies as a primary person as the parent of a child under age 19. Under MA rules, the BadgerCare Plus test group must include the co- parent of the primary person's child. Since [REDACTED] is the adjudicated father of petitioner's child and is living with petitioner and the child, he was properly considered as part of the BadgerCare Plus test group and his income was properly considered when it came time to determine petitioner's status, *BadgerCare + Eligibility Handbook*, Ch. 2, ¶2.2.1.

The second question concerns the propriety of the deposit imposed on petitioner's MA coverage. On April 27, 2012, the Department of Health Services issued Operations Memo 12-25 which, among other things imposed a premium on adults applying for MA from households in which income was in excess of 133% of the federal poverty line. Petitioner's household income was calculated at \$3,657.30 per month when [REDACTED]'s income was included. 133% of the federal poverty line is \$2,115.80 per month for a household of three and petitioner's household income was above that level. Petitioner acknowledged that the income levels that the agency used were correct (once petitioner's change in employment was factored in). The premium determined by the agency falls within the range specified in Operations Memo 12-25 and I can find no error in the agency's calculations (Exhibit 5). It therefore follows that the agency's determination was correct and that petitioner is subject to a monthly premium of \$256 for her MA coverage.

### CONCLUSIONS OF LAW

The agency properly included the income of the live- in father of petitioner's child when calculating petitioner's household income for MA and properly imposed a premium on petitioner's MA coverage.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and hereby 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 3rd day of October, 2012

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Michael A. Greene  
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 3, 2012.

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