



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCS/142538

PRELIMINARY RECITALS

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

The issue for determination is whether the agency properly included petitioner's ex-husband's income in establishing that petitioner would be eligible for Medical Assistance subject to a deductible.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
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 covered by Medical Assistance under BadgerCare Pluys when she reported that she and her daughter had rented a room from her ex-husband (the daughter's father) and was consequently living in the same house with him.

3. The agency obtained information as to the ex-husband's income and included his income in determining whether petitioner remained eligible for MA coverage. The agency determined that petitioner's daughter remained eligible for coverage under the BadgerCare Plus Standard Plan and that petitioner would remain eligible for coverage subject to payment of a premium of \$476 per month. A notice of decision to that effect was sent to petitioner on July 9, 2012.

DISCUSSION

Wisconsin's Medical Assistance (MA) provides basic and necessary health care coverage to various segments of the state's population. The BadgerCare Plus program is aimed and provided coverage to children, their caretakers and to women who are pregnant. Eligibility is based on the size and income of a BadgerCare Plus Test Group, comprised of a primary party and other individuals drawn in by relationship and living arrangement, *BadgerCare + Eligibility Handbook*, Ch 2., ¶2.2.

In the present case, petitioner may be viewed as the primary party. As such she qualifies as the primary party because she is a parent residing with a child under age 19, *id.* The BadgerCare Plus test group also includes petitioner's ex-husband because they are living in the same residence and the ex-husband is the father of the child, *BadgerCare + Eligibility Handbook*, Ch. 2, ¶2.2.1.6. Once included in the Test Group, the ex-husband's income must be taken into account when determining whether members of the Test Group are eligible for coverage even if coverage is not requested for the ex-husband, *BadgerCare + Eligibility Handbook*, Ch. 2, ¶2.6.

Including the ex-husband's income, the BadgerCare Plus Test Group had countable income of \$5,006.40 per month (Exhibit 6). Under current rules the child remains eligible for BadgerCare while petitioner, having household income in excess of 133% of the federal poverty line and remained eligible for coverage subject to payment of a premium, *BadgerCare + Eligibility Handbook*, Ch. 16, ¶16.1. The agency's calculations appear to be correct and I have no reason to disturb its conclusions.

CONCLUSIONS OF LAW

Where petitioner rented a room for herself and her daughter from her ex- husband (the daughter's father), the ex-husband was properly included in the BadgerCare Plus Test Group and his income was properly used in determining that petitioner was required to pay a premium for 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, 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 19th day of October, 2012

Michael A. Greene
Administrative Law Judge
Division of Hearings and Appeals

c: Division of Health Care Access and Accountability, DHSADHCAA@Wisconsin.gov -
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The preceding decision was sent to the following parties on October 19, 2012.

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