



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

BCS/142666

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 25, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Door County Department of Social Services in regard to Medical Assistance, a telephonic hearing was held on August 27, 2012, at Sturgeon Bay, Wisconsin.

The issue for determination is whether the county agency correctly discontinued the BadgerCare (BC) Plus benefits of petitioner and his wife effective August 1, 2012, due to gross household income above the BC gross income eligibility limits for a household of four.

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: Cheryl Burmeister, Baylake Consortia (Door County)  
Door County Department of Social Services  
Door County Government Center  
Sturgeon Bay, WI 54235-0670

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Door County who resides with his wife, [REDACTED] and their two children.
2. During July, 2012, the petitioner completed his BadgerCare Plus review application with the county agency.

3. The petitioner is employed at [REDACTED] and receives payment of \$1,425 every other week.
4. Petitioner's wife is employed at the [REDACTED], and receives payment of \$800 every other week.
5. The Department sent an April 30, 2012 generic letter to BC Plus recipients regarding general policy changes in BadgerCare Plus for Families and Core Plan members effective July 1, 2012, and how those changes might affect the recipients. See Exhibit 2.
6. As of August, 2012, petitioner's household had gross earned income of \$ 4,450.00 which is above the 200% Federal Poverty Limit (FPL) of \$3,841.67 for a household of four.
7. The county agency sent a July 17, 2012 Notice of Decision to the petitioner stating that the BadgerCare Plus benefits for petitioner and his wife would discontinue effective August 1, 2012, due to gross household income of \$4,450 which is above the gross income eligibility limits of \$3,841.67 for a household of four. That same notice stated that petitioner's two minor children were eligible for the BadgerCare Benchmark Plan as of August 1, 2012 with a \$30 monthly premium. See Exhibit 1. The petitioner received Exhibit 1.

### DISCUSSION

Wisconsin's BadgerCare program, as set forth in *Wis. Stats.* §49.665, is intended to provide basic health care coverage for low-income families that do not have access to employer-subsidized health insurance. The Wisconsin Department of Health Services is charged with establishing the criteria for determining income under BadgerCare, *Wis. Stats.* §49.665(4) (a) 1. A family meets the financial eligibility requirements for BadgerCare on its initial application if its income does not exceed 185% of the poverty line, *Wis. Stats.* §49.665(4) (a) 1. **A family that is already participating in BadgerCare maintains its eligibility if its income does not exceed 200% of the poverty line, *Id.***

In the instant appeal, the petitioner's case is an appeal of the August 1, 2012 discontinuance of petitioner's BadgerCare benefits for himself and his wife, due to excess income. As explained above, the applicable income limit for a BadgerCare recipient is 200% of the poverty line. The income limit for a household of four is \$3,841.67 pursuant to the *Medicaid Eligibility Handbook* § 39.5, "FPL Tables" and the *BadgerCare Plus Eligibility Handbook*, §50.1, "FPL Tables."

All available household income is counted in determining BadgerCare Plus eligibility unless some specific exception applies. *BadgerCare Plus Handbook*, 16.1, "Income." As a result, the petitioner's household's income of \$4,450.00 is all counted in determining the household's gross income eligibility. There is no exception which applies to the petitioner's earned income, and therefore all of petitioner's household's income must be counted in determining petitioner's household's BadgerCare Plus income eligibility.

During the August 27, 2012 hearing, county agency representative, ESS Cheryl Burmeister, explained how it had calculated the petitioner's total household income to be \$4,450.00. Mr. [REDACTED] did not dispute his household income, and was unable to refute the county correctly calculated the household's gross income. However, Mr. Jaskolski questioned why the county agency applied the 200% FPL limit in determining the household's BC Plus income eligibility. As indicated above, a family meets the financial eligibility requirements for BadgerCare on its initial application if its income does not exceed 185% of the federal poverty line, *Wis. Stats.* §49.665(4) (a) 1. **A family that is already participating in BadgerCare maintains its eligibility if its income does not exceed 200% of the poverty line, *Id.***

In this case, the petitioner explained that he did not request this appeal because the county agency incorrectly discontinued BC Plus for himself and his wife as of August 1, 2012 due to household income above the income eligibility limit. Instead, petitioner requested the hearing because he believed that the Department's April 30, 2012 letter regarding BC policy changes effective July 1, 2012 was misleading with the attached BC premium tables. However, there is no hearing right before DHA based upon a BC recipient believing a generic policy letter is confusing or misleading. The hearing right occurs due to the county agency's action to discontinue the petitioner's BC Plus benefits effective August 1, 2012. Nevertheless, I will briefly address petitioner's question why the BC premium chart addresses incomes above \$3,841.67, if a family size of four is over the income limit when the household income is above \$3,841.67. The answer is that BC premium chart (attached to the Department's April 30, 2012 generic letter) addresses the unique situation of self-employed persons with depreciation, and in those specific situations a person might be eligible for a BC premium even with a household income above \$3,841.67. However, there is no evidence in the hearing record that petitioner is self-employed and has depreciation in that self-employment. As a result, that exception does not apply to the petitioner's case.

The petitioner was unable to provide any evidence to refute that his household's gross income of \$4,450 was above the gross income eligibility limits of \$3,841.67 for a household of four pursuant to the *Medicaid Eligibility Handbook* § 39.5, "FPL Tables." Accordingly, I must conclude that the county agency correctly discontinued the BadgerCare (BC) Plus benefits of petitioner and his wife effective August 1, 2012, due to gross household income above the BC gross income eligibility limits for a household of four.

### **CONCLUSIONS OF LAW**

The county agency correctly discontinued the BadgerCare (BC) Plus benefits of petitioner and his wife effective August 1, 2012, due to gross household income above the BC Plus gross income eligibility limits for a household of four.

**THEREFORE, it is**

**ORDERED**

The petition for review herein be and the same is hereby 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 Madison,  
Wisconsin, this 15th day of October, 2012

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Gary M. Wolkstein  
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 October 15, 2012.

Door County Department of Social Services  
Division of Health Care Access and Accountability