



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of



DECISION

BCS/143315

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 23, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services (MES) in regard to BadgerCare Plus benefits, a telephonic hearing was held on October 18, 2012, at Milwaukee, Wisconsin. At the request of the parties, the record was held open until October 25, 2012 for MES to submit additional documentation to DHA and the petitioner, and then until November 1, 2012 for petitioner to submit her response to DHA and MES. MES timely submitted its documentation to DHA and petitioner which is received into the hearing record. However, the petitioner failed to submit any response to DHA by the November 1, 2012 deadline or even by the date of this decision.

The issue for determination is whether Milwaukee Enrollment Services (MES) correctly discontinued the petitioner's BadgerCare (BC) Plus benefits effective September 1, 2012, due to gross household income above the BC gross income eligibility limits for a household of three.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

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

By: Mary Hartung, HSPC senior  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County who resides with her boyfriend, [REDACTED] and their minor child in common, ZM.
2. On June 28, 2011 and August 7, 2012, petitioner completed her BadgerCare Plus review applications, and listed [REDACTED] [REDACTED] as residing in her residence on both those applications.
3. During the August 2012 review, Milwaukee Enrollment Services confirmed that petitioner received gross earned income of about \$999.60 every other week from [REDACTED] and that Mr. [REDACTED] received gross earned income of \$1,730.40 every other week from [REDACTED] [REDACTED] for a total household gross income of \$5,460.00.
4. As of August, 2012, petitioner's household had gross earned income of \$5,460.00 which is above the 200% Federal Poverty Limit (FPL) of \$3,181.67 for a household of three.
5. Milwaukee Enrollment Services sent an August 13, 2012 Notice of Decision to the petitioner stating that the BadgerCare Plus benefits for petitioner would discontinue effective September 1, 2012, due to gross household income of \$5,460.00 which is above the gross income eligibility limits of \$3,181.67 for a household of three. That same notice stated that petitioner's minor child was eligible for the BadgerCare Benchmark Plan as of September 1, 2012 with a \$97.53 monthly premium.

### 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 September 1, 2012 discontinuance of petitioner's BadgerCare benefits for herself, 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 three is \$3,181.67 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 \$5,460.00 is all counted in determining the household's gross income eligibility. A parent (Mr. [REDACTED]) residing with his child under the age of 19 must be included in the same BadgerCare Plus Test group. 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 October 18, 2012 hearing, the MES representative, Mary Hartung, explained how it had calculated the petitioner's total household income to be \$5,460. The petitioner did not dispute that household income, and was unable to refute that MES correctly calculated the household's gross income. However, petitioner disputed that Mr. [REDACTED] resided with her and alleged unconvincingly that he resided in another part of the duplex. However, the hearing record is undisputed that petitioner listed [REDACTED] [REDACTED] as residing in her household on both her June 28, 2011 and August 7, 2012 ACCESS applications.

While the record was held open, the petitioner did not submit any reliable evidence to establish that Mr. [REDACTED] did not reside with the petitioner during the periods in question.

The petitioner was unable to provide any reliable evidence to refute that his household 's gross income of \$5,460 was above the gross income eligibility limits of \$3,181.67 for a household of three pursuant to the *Medicaid Eligibility Handbook* § 39.5, "FPL Tables." Accordingly, I must conclude that Milwaukee Enrollment Services (MES) correctly discontinued the petitioner's BadgerCare (BC) Plus benefits effective September 1, 2012, due to gross household income above the BC gross income eligibility limits for a household of three.

### **CONCLUSIONS OF LAW**

Milwaukee Enrollment Services (MES) correctly discontinued the petitioner's BadgerCare (BC) Plus benefits effective September 1, 2012, due to gross household income above the BC gross income eligibility limits for a household of three.

**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 served and 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 Madison,  
Wisconsin, this 19th day of November, 2012

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\sGary 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 November 19, 2012.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability