



STATE OF WISCONSIN  
Division of Hearings and Appeals

---

In the Matter of



DECISION

BCS/143456

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed August 27, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on September 20, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the Department erred in determining petitioner's income and subsequently requiring a \$65.00 monthly premium for petitioner's BadgerCare Plus benefits.

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  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. Petitioner completed an ACCESS online renewal on July 29, 2012. On August 6, 2012, petitioner submitted verification of her last 30 days of income to the agency. Petitioner averaged

63.5 regular hours, and 8.25 overtime hours. Holiday pay included on one paystub was disregarded in computing petitioner's income.

3. In addition to her earned income, petitioner receives unearned income from child support.
4. On August 7, 2012, respondent sent a notice to petitioner informing her that her BadgerCare benefits would be modified; i.e., petitioner would be required to pay a monthly premium of \$65.00 due to her calculated monthly income, effective September 1, 2012. The notice indicated that petitioner's gross income was \$1,866.52. The premium income limit for petitioner is \$1,676.90.
5. On August 27, 2012, petitioner appealed the income determination that resulted in the imposition of the monthly premium requirement.

### **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 (effective date), monthly premium determination due to increased income. The respondent calculated petitioner's monthly income as \$1,866.52. Exhibit 5. For a household of two, pursuant to the *Medicaid Eligibility Handbook* § 39.5, "FPL Tables," the applicable premium income limit for a BadgerCare recipient was \$1,676.90 at the time that the notice was sent.

During the September 20, 2012 hearing, the county agency representative explained how it had calculated the petitioner's household income. The petitioner disputed that calculation, arguing that her overtime should not have been included, as those figures varied. However, petitioner was unable to substantively prove that the county incorrectly calculated her household income with any evidence of wages that would have required a different result. While I conclude that petitioner has not met her burden in this case, I do not doubt the sincerity of her testimony regarding the overtime hours. If appropriate, the petitioner should promptly provide further wage verification to the county agency, and request that her BadgerCare premium be re-determined.

In any case, I must conclude that the county agency correctly determined that petitioner would be required to pay a premium to retain her BadgerCare benefits effective September 1, 2012, due to her household income which exceeded the BadgerCare program's premium income limit.

### **CONCLUSIONS OF LAW**

The county agency correctly determined that petitioner's household income would result in the requirement that petitioner pay a monthly premium to retain her BadgerCare benefits effective September 1, 2012.

**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, 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 October, 2012

---

Peter McCombs  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

David H. Schwarz  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 19, 2012.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability