



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

BCS/143620

PRELIMINARY RECITALS

Pursuant to a petition filed September 04, 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 October 16, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the Department erred by counting petitioner's family's social security benefits as income for the household in determining BadgerCare Plus eligibility.

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: Pamela Hazely
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner had previously been enrolled, with his household, in BadgerCare Plus.

3. Petitioner's household income includes \$1,441.30 in a retirement annuity, \$297 in social security benefits to each of petitioner's three minor children, \$297 in social security benefits to petitioner's wife, and \$1,420 in social security retirement benefits to petitioner.
4. The Department calculated a new increased premium of \$187 for BadgerCare Plus for petitioner effective July 1, 2012 and due on July 10, 2012. Petitioner also was required to complete a periodic renewal before July 31, 2012. Petitioner did not complete the required renewal and did not pay the premium.
5. The Department issued notice to petitioner on July 18, 2012 informing petitioner that his BadgerCare Plus would terminate effective August 1, 2012 because he failed to pay his premium and complete his renewal.
6. Petitioner filed a timely appeal from the July 18, notice.

DISCUSSION

At the time of hearing, petitioner made only one argument. He argued that social security benefits are "benefits" and not "income." Essentially, his position is that if the social security income stream is disregarded then the household premium would be considerably less. Petitioner referred to the Merriam-Webster Dictionary, the history of the social security program, and federal income tax law. He argued that because social security is not subject to income tax, it is not "income." But, a global definition of "income" in the abstract is not required to determine whether the Department erred. The rules are perfectly clear that social security benefits are to be considered "other income" into the household when determining BadgerCare Plus eligibility.

Other income is any payment that the member receives from sources other than employment. Unless it is disregarded income, count the gross payment in the person's income total.

* * *

3. Social Security Benefits - Count Social Security Benefits as unearned income in the month received.

Supplemental Security Income (SSI) is not counted ([16.2.33](#)).

The following is a brief list of the potential codes that should be used in coding Social Security income types:

SSDC - Social Security Disabled Child
 SSDI - Social Security Disability/Wage Earner
 SSDW - Social Security Disability/Wife
 SSRE - Social Security Retirement
 SSSC - Social Security Surviving Child
 SSSS - Social Security Surviving Spouse
 SSWW - Social Security Disabled Widow(er)

BadgerCare Plus Eligibility Handbook §§ 16.5 & 16.5.3. The Department applied the program rules correctly.

CONCLUSIONS OF LAW

The Department did not err in its counting of social security benefits as income when determining BadgerCare Plus eligibility.

THEREFORE, it is

ORDERED

That this appeal 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 Madison,
Wisconsin, this 16th day of October, 2012

John P. Tedesco
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 16, 2012.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability