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[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

BCS/144290

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 02, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Wood County Human Services - WI Rapids in regard to Medical Assistance, a telephone hearing was held on November 21, 2012.

The issue for determination is whether respondent correctly discontinued BadgerCare Plus (BC) for petitioner and her husband, due to gross household income above the Badger Care gross income eligibility limit.

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: Beulah Garcia

Wood County Human Services - WI Rapids  
320 West Grand Avenue  
PO Box 8095  
Wisconsin Rapids, WI 54495 -8095

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs

Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Wood County who resides in a household of four with her husband, a daughter and a son. Petitioner and her husband received BadgerCare benefits through November 1, 2012.

2. The respondent sent a September 19, 2012, letter to the petitioner informing her that an increase in unearned income attributed to her daughter would result in household income exceeding BC program income limits. Exhibit 3.
3. Between September and October of 2012, Petitioner's daughter's social security income increased from \$743.00 to \$991.00, following the death of the daughter's father.
4. Prior to the increase in unearned income noted at paragraph 3, above, petitioner's household was approximately \$20 below the BC income limit. See Exhibit 4. Following the income increase, the household income exceeded the BC income limit by approximately \$220.00. *Id.*
5. Respondent's September 19, 2012, correspondence informed petitioner that her BC benefits would discontinue effective November 1, 2012, due to the increase in household gross income. See Exhibit 3.

### 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.* See also the *BadgerCare Plus Eligibility Handbook*, §43.7.2, Income and Resources. In the instant appeal, the petitioner's case is an appeal of the November 1, 2012 discontinuance of petitioner's BadgerCare benefits 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 \$3,841.66 pursuant to the *Medicaid Eligibility Handbook* § 39.5, "FPL Tables."

During the November 21, 2012, hearing, the respondent's representative explained and documented how it had calculated the petitioner's household monthly income to be \$4,067.92. The petitioner did not dispute that household income, and was unable to refute that the county correctly calculated her household income as above the BadgerCare income eligibility limits.

All available household income is counted in determining BadgerCare Plus eligibility unless some specific exception applies. *BadgerCare Plus Handbook*, 16.1, "Income." There is no exception which applies to the petitioner's daughter's unearned income, and therefore all of petitioner's household income must be counted in determining BadgerCare income eligibility.

In testimony and in correspondence submitted with the Request for Fair Hearing and another submitted shortly thereafter, the petitioner contended that it was unfair that she and her husband were found ineligible for the BadgerCare program because her husband has recently suffered extreme cardiac issues, and urgently needs medical benefits. The petitioner's argument is certainly understandable. However, the petitioner's household income of \$4,067.92 exceeds the BadgerCare income limit of \$3,841.66 for a household of four pursuant to the *Medicaid Eligibility Handbook* § 39.5, "FPL Tables." Accordingly, I must conclude that respondent correctly and properly discontinued BadgerCare benefits for petitioner and her husband effective November 1, 2012, due to household income above the BC income eligibility limits.

**CONCLUSIONS OF LAW**

The respondent correctly discontinued BadgerCare (BC) benefits for petitioner and her husband effective November 1, 2012, due to gross household income above the BadgerCare gross income eligibility limit.

**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 14th day of December, 2012

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\sPeter McCombs  
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 December 14, 2012.

Wood County Human Services - WI Rapids  
Division of Health Care Access and Accountability