



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCS/144854

PRELIMINARY RECITALS

Pursuant to a petition filed October 25, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Pierce County Department of Human Services in regard to Medical Assistance, a hearing was held on November 27, 2012, at Ellsworth, Wisconsin.

The issue for determination is whether the petitioner and her husband are both ineligible for BadgerCare Plus if the amount she would pay for an individual health insurance policy offered by her employer is less than 9.5% of her total household income.

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: Rebecca Miller

Pierce County Department of Human Services
412 West Kinne Street
PO Box 670
Ellsworth, WI 54011

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Pierce County.
2. The petitioner lives with his wife and two children.

3. The petitioner's total household income is \$3,391.75 per month. This amount exceeds 133% of the federal poverty level.
4. The petitioner's wife is offered health insurance subsidized by her employer. Her employer pays 80% of the premium. Her share of the premium is \$92.07 biweekly if only she is covered or \$229 biweekly if her husband is also covered.

DISCUSSION

BadgerCare Plus allows children under 19 and their parents to receive medical assistance if their income falls within the limits found in the *BadgerCare Plus Eligibility Handbook*, § 16.1.; Wis. Stat. § 49.471. Beginning on July 1, 2012, those with access to health insurance in which their employer pays at least 80% of the premium are ineligible for BadgerCare Plus if their household income exceed 133% of the federal poverty. *BadgerCare Plus Handbook*, § 7.1. A second policy applies to new applicants, those with new employment, those who are completing their next review or renewal, or employed parents or caretakers added to the medical assistance group. This policy holds that those who meet the following conditions are considered to have current access and thus are ineligible for BadgerCare Plus:

- the individual could enroll in and be covered under the plan in the month for which eligibility is being determined, **and**
- the cost of coverage for the employee-only plan does not exceed 9.5% of the monthly household income.

BadgerCare Plus Handbook, §§ 7.1 and 7.3.3.

The policy goes on to state that “[w]hen an employed parent or caretaker has been determined to have current access, the individual's spouse will also be considered to have current access if the employer offers a plan that provides coverage to the spouse, such as employee + spouse or employee + family coverage.” *Id.* Finally, “[t]here are no good cause reasons for not enrolling in a health insurance plan when an individual has current access.” *Id.*

The petitioner concedes that his household income exceeds 130% of the federal poverty level, that his wife's employer offers insurance, and that the premium for her alone—\$92.07 every two weeks—is less than 9.5% of their household income. However, when he is covered, the premium jumps to \$229 every two weeks, which far exceeds 9.5% of their household income. Ending his BadgerCare Plus under these circumstances makes no sense to him because there is no relationship between their total household income and the amount that their total household pays to have all of its members covered. If an employer requires too high of a premium to insure additional family members, one of the parents could be left uninsured, something the BadgerCare Plus program was meant to prevent.

I have no authority to ascertain the wisdom or logic of the healthcare regulations; rather, I must apply them as they are written. Because the petitioner's wife receives health insurance through her employer and the amount she pays for that insurance is less than 9.5% of her household's total income, she is ineligible for BadgerCare Plus. Because her employer provides coverage to the petitioner, he is also considered to have current access to coverage regardless of the cost of that additional coverage. This undoubtedly creates a hardship for his family, but I cannot consider this because the rules specifically state that there are no *good cause* reasons for not enrolling in a plan if he has current access to that plan. Therefore, I must uphold the agency's decision to end his and his wife's BadgerCare Plus benefits.

CONCLUSIONS OF LAW

The petitioner and her husband are ineligible for BadgerCare Plus because her premium for an employee-only policy is less than 9.5% of her total household income.

THEREFORE, it is

ORDERED

That the petitioner's 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 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 3rd day of January, 2013

\sMichael D. O'Brien
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 January 3, 2013.

Pierce County Department of Human Services
Division of Health Care Access and Accountability