



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

BCS/145534

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 26, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Washington County Department of Social Services in regard to Medical Assistance, a hearing was held on January 08, 2013, at West Bend, Wisconsin before ALJ Greene. This case was re-assigned from ALJ Greene to ALJ Wolkstein due to Judge Greene's medical leave. This ALJ reviewed the file and listened to the tape of the January 8, 2013 hearing.

The issue for determination is whether the county agency correctly discontinued the petitioner's BadgerCare benefits effective December 1, 2012 due to household income above the 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: Julie Williamsen, ESS

Washington County Department of Social Services  
333 E. Washington Street  
Suite 3100  
West Bend, WI 53095

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Washington County who resides in a household of six (two adults and four children).

2. The petitioner received BadgerCare (BC) Plus benefits for her household.
3. The petitioner completed her review on or about November 15, 2012.
4. During November, 2012, petitioner's household received total earned income of \$4,666.96 and unearned income of \$1,126.68 for a total household income of \$5,793.64.
5. The BC Plus income limit for a household of six is \$5,161.67.
6. The county agency sent a November 16, 2012 Notice of Decision to the petitioner stating that her BadgerCare Plus benefits would discontinue effective December 1, 2012, due to household income above the BC income eligibility limit for a household of six.

### 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 December 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 six is \$5,161.67 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 \$5,793.64 is all counted in determining the household's gross income eligibility. There is no exception which applies to the petitioner's earned income (including overtime and any bonuses), and therefore all of petitioner's household's income must be counted in determining petitioner's household's BadgerCare Plus income eligibility.

During the January 8, 2013 hearing, ESS Julie Williamsen explained how the county agency had calculated the petitioner's total household income to be \$5,793.64. During the hearing, petitioner did not dispute her household income for November, 2012. However, petitioner explained she had overtime and bonus pay during that month which did not continue. She also anticipates that her earned income will be less during January through March, 2013. However, the only issue in this appeal is whether the county agency correctly discontinued the petitioner's BadgerCare benefits effective December 1, 2012 due to household income above the income eligibility limit.

The petitioner was unable to provide any reliable evidence to refute that her household's gross income of \$5,793.64 during November, 2012 was above the gross income eligibility limits of \$5,161.67 for a household of six pursuant to the *Medicaid Eligibility Handbook* § 39.5, "FPL Tables." Accordingly, I must conclude that the county agency correctly discontinued the petitioner's BadgerCare (BC) Plus benefits effective December 1, 2012, due to gross household income above the BC gross income eligibility limits for a household of six.

As dicta, if petitioner has not already done so, petitioner may wish to re-apply for BC benefits if her household income has reduced below the BC income eligibility limit.

**CONCLUSIONS OF LAW**

The county agency correctly discontinued the petitioner's BadgerCare (BC) Plus benefits effective December 1, 2012, due to gross household income above the BC gross income eligibility limits for a household of six.

**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 22nd day of March, 2013

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\sMike Greene by Gary 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 March 22, 2013.

Washington County Department of Social Services  
Division of Health Care Access and Accountability