



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/145588

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 29, 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 hearing was held on February 20, 2013, at Hayward, Wisconsin. Hearings scheduled for December 18, 2012, and January 22, 2013, were rescheduled at the petitioner's request. The record was left open for 14 days at the petitioner's request.

The issue for determination is whether the agency correctly determined the petitioner's income and that she must pay a premium to receive BadgerCare Plus.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[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:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Sawyer County.

2. The petitioner completed her BadgerCare Plus renewal on November 1, 2012. The agency notified her on November 27, 2012, that she and her husband would have to pay a \$161 monthly premium for her benefits as of December 1, 2012.
3. Every two weeks, the petitioner earns \$751.10 and her husband earns \$1,066.79. Each month, they receive \$751.78 in SSI on behalf of one child and \$240 in child support on behalf of another. The petitioner's husband pays \$1,053.50 in child support each month.

### 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. Premiums and eligibility depend upon a household's income, which includes "the total gross earned and unearned income received by all members of a family." Wis. Stat. § 49.471(1)(f). Child support received is counted as income, but child support paid out is deducted from income. *BadgerCare Plus Handbook*, §§ 16.3 and 16.5. Adults must pay a premium if their countable income exceeds 133% of the federal poverty level; they must pay a premium on behalf of their children if their countable income exceeds 200% of the federal poverty level. *BadgerCare Plus Handbook*, § 19.1. For a family of four, the size of the petitioner's household, 133% of the federal poverty level is \$2,610.13 and 200% of the federal poverty level is \$3,925. *BadgerCare Plus Eligibility Handbook*, § 50.1. (Those amounts were slightly lower when the agency reviewed the petitioner's claim.) Premiums are calculated on a sliding scale ranging from 3% to 9.5% of countable income, with the percentage increasing as the income rises above 133% of the federal poverty level. *BadgerCare Plus Handbook*, §§ 19.2 and 48.1.2.

The agency determined that the petitioner's countable household income was \$3,295.78 and required her to pay \$161 for her benefits. She contends that the agency overstated her income because she had been off from work and was not working as many hours as her employer reported to the agency. I left the record open for two weeks so that she could submit additional information. It has now been almost six weeks since the hearing, and she has not submitted any additional information. I note that the matter was postponed twice at her request, so she has had over four months since filing her appeal to gather her evidence. Based upon this, I will rely on the agency's determination of her income. Because I find no error in its calculation of her benefits, I must uphold its decision.

### CONCLUSIONS OF LAW

The BadgerCare Plus agency correctly determined the petitioner's household income and BadgerCare Plus premium.

**THEREFORE, it is**

**ORDERED**

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 April, 2013

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

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