



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

BCS/146183

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 27, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Manitowoc County Department of Human Services in regard to Medical Assistance, a telephonic hearing was held on January 30, 2013, at Manitowoc, Wisconsin. At the request of the parties, the record was held open for two days for the county agency to submit additional information to DHA. In her January 31, 2013 faxed letter, ES Manager stipulated that petitioner's child, [REDACTED], will be restored to the BadgerCare Plus program retroactive to January 1, 2013 with no premium. However, [REDACTED]'s eligibility solely for the month of December, 2012 remained in the BC Benchmark Plan due to income.

The issue for determination is whether the county agency correctly discontinued the petitioner's BadgerCare (BC) Plus benefits solely for the month of December, 2012, due to gross household income above the BC gross income eligibility limits for a household of three, and placed petitioner's child in the BC Benchmark Plan for that one month.

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: Lori Garceau, ES Manager

Manitowoc County Department of Human Services  
3733 Dewey Street  
Manitowoc, WI 54221-1177

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Manitowoc County who resides with her husband and their two year old child, [REDACTED]
2. [REDACTED] has serious health problems with needed expensive treatments.
3. During the November, 2012 review, the county agency confirmed that petitioner's husband [REDACTED] was in the home and that his income must be counted.
4. During December, 2012 [REDACTED] received gross earned income of about \$1,120 every other week from [REDACTED] and that petitioner received gross earned income of \$757.80 every other week from [REDACTED] for a total household gross income of \$3,755.60.
5. As of December, 2012, petitioner's household had gross earned income of \$3,755.60 which is above the 200% Federal Poverty Limit (FPL) of \$3,181.67 for a household of three.
6. The county agency sent a Notice of Decision to the petitioner stating that the BadgerCare Plus benefits for petitioner would discontinue effective December 1, 2012, due to gross household income of \$3,755.60 which is above the gross income eligibility limits of \$3,181.67 for a household of three. That same notice stated that petitioner's minor child was eligible for the BadgerCare Benchmark Plan as of December 1, 2012 with a \$15.00 monthly premium.
7. The petitioner provided verification to the county agency that her income decreased during January, 2013, due to a reduction in her work hours.
8. In her January 31, 2013 faxed letter, ES Manager stipulated that petitioner's child, [REDACTED] will be restored to the BadgerCare Plus program retroactive to January 1, 2013 with no premium.

### 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 solely the discontinuance of petitioner's BadgerCare Plus benefits for the month of December, 2012, 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 three is \$3,181.67 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 \$3,755.60 was all counted in determining the household's gross income eligibility for the month of December, 2012. A parent ([REDACTED] residing with his child under the age of 19 must be included in the same BadgerCare Plus Test group. There is no exception which applies to the petitioner's earned income, 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 30, 2013 hearing, ES Manager, Lori Garceau, explained how the agency had calculated the petitioner's total household income to be \$3,755.60. The petitioner did not dispute that household income, and was unable to refute that MES correctly calculated the household's gross income. However, petitioner provided verification to the county agency that her income decreased during January, 2013, due to a reduction in her work hours. In her January 31, 2013 faxed letter, ES Manager stipulated that petitioner's child, [REDACTED], will be restored to the BadgerCare Plus program retroactive to January 1, 2013 with no premium.

The petitioner was unable to provide any reliable evidence to refute that his household's gross income of \$3,755.60 was above the gross income eligibility limits of \$3,181.67 for the month of December, 2012 for a household of three pursuant to the *Medicaid Eligibility Handbook* § 39.5, "FPL Tables." The petitioner's household's income was below that gross income limit as of January 1, 2013. Accordingly, I conclude that the county agency correctly discontinued the petitioner's BadgerCare (BC) Plus benefits solely for the month of December, 2012, due to gross household income above the BC gross income eligibility limits for a household of three, and placed petitioner's child in the BC Benchmark Plan for that one month.

### CONCLUSIONS OF LAW

1. The county agency correctly discontinued the petitioner's BadgerCare (BC) Plus benefits solely for the month of December, 2012, due to gross household income above the BC gross income eligibility limits for a household of three, and placed petitioner's child in the BC Benchmark plan for that one month with a premium.
2. The county agency stipulated that petitioner's child, [REDACTED] will be restored to the BadgerCare Plus program retroactive to January 1, 2013 with no premium.

**THEREFORE, it is**

### ORDERED

The matter is remanded to the county agency with instructions to restore petitioner's child, [REDACTED] to the BadgerCare Plus program retroactive to January 1, 2013 with no premium, within 10 days of the date of this Decision. In all other respects, the petition for review 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 11th day of March, 2013

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\sGary 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 11, 2013.

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