



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCC/147103

PRELIMINARY RECITALS

Pursuant to a petition filed February 02, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Chippewa County Department of Human Services in regard to Medical Assistance, a hearing was held on March 19, 2013, at Chippewa Falls, Wisconsin.

The issue for determination is whether the county agency correctly determined that the petitioner's income exceeds the BadgerCare Plus Core Plan limit.

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: Rhonda Kimmer

Chippewa County Department of Human Services
711 N. Bridge Street
Chippewa Falls, WI 54729-1877

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) resides in Chippewa County with her husband.
2. The county agency seeks to end the petitioner's BadgerCare Plus Core Plan benefits. (There is no notice in the file indicating exactly when it intended to do so.)

3. The petitioner and her husband own rental property. On their most recent tax return they showed gross receipts of \$116,400, expenses of \$121,374 and depreciation of \$37,569. After adding the depreciation back into their net income, they received \$32,595, or \$2,716.25 per month.
4. Two hundred percent of the federal poverty level is \$2,585.

DISCUSSION

The BadgerCare Plus Core Plan expanded medical assistance coverage to persons between 18 and 64 years old who do not have any children under 19 years old. *BadgerCare Plus Eligibility Handbook*, § 43.2. Recipients must not currently have insurance or access to insurance provided by an employer, and their gross income cannot exceed 200% of the federal poverty level. *Id.* Income tax deductions for depreciation must be added back into income when determining medical assistance eligibility. Wis. Admin. Code, § DHS 103.07(2)(a). This means that when using the previous year's income tax return to determine income, the Department must add any deduction taken for depreciation back into income. Furthermore, applicants cannot claim any other deductions such as the earned income deduction allowed for other parts of the medical assistance program. *BadgerCare Plus Eligibility Handbook*, § 43.7.2.

The county agency ended BadgerCare Plus Core Plan benefits for the petitioner and her husband after determining that their countable income exceeds 200% of the federal poverty level. For a two-person household this is \$2,585. *BadgerCare Plus Handbook*, § 50.1. The agency determined that the petitioner's gross household income is \$2,715.24 per month. (My calculation shows her earning \$.01 more a month, but this is insignificant.) This is much higher than their income had been determined to be in the past because Enrollment Services, which had previously handled the case, did not add depreciation back into their self-employment income. The petitioner does not question the agency's calculations but rather disagrees with its decision to add depreciation back into her income. While I understand her argument, both the agency and I must follow the law as it is written, and medical assistance law clearly requires that depreciation be added back into income.

CONCLUSIONS OF LAW

1. Depreciation must be added back into the petitioner's household income when determining whether she is eligible for the BadgerCare Plus Core Plan.
2. The county agency correctly ended the petitioner's BadgerCare Plus Core Plan benefits because her countable household income exceeds 200% of the federal poverty level.

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 8th day of April, 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 April 8, 2013.

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