



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/147319

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 14, 2013, 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 March 20, 2013, at Ellsworth, Wisconsin.

The issue for determination is whether the petitioner's income exceeds the BadgerCare Plus limit and he must pay a premium on behalf of her children.

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: Rebecca Mueller

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. Petitioner (CARES # [REDACTED]) is a resident of Pierce County.
2. There are five persons in the petitioner's household, including three children.

3. The petitioner's total household income in 2012 was \$50,599, or \$ 4,249.92 per month. This is 185% of the federal poverty level. Extrapolated from *BadgerCare Plus Handbook*, § 50.1. The petitioner did not deduct any depreciation from his income.
4. One hundred percent of the federal poverty level is \$2,297.50; 200% is \$4,595.
5. On December 6, 2012, the county agency notified the petitioner that her and her husband's BadgerCare Plus benefits would end and that she would be assessed a \$30 monthly premium for her children.

### 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). Unless they are pregnant, adults are ineligible if their household income exceeds 200% of the federal poverty level. Wis. Stat. § 49.471(4)(a). 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 five, the size of the petitioner's household, 200% of the federal poverty level is \$4,594. *BadgerCare Plus Eligibility Handbook*, § 50.1. 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 county agency ended the petitioner and her husband's BadgerCare Plus benefits and assessed a premium for their children because it contends that their income exceeds 200% of the federal poverty level. It is unclear how the agency reached this determination because their total earnings in 2012 were \$50,599, or \$4,249.92 per month, which is 185% of the federal poverty level. Most of their income comes from self-employment; the petitioner receives wages, but these have not increased by the almost \$350 a month that would be needed to reach 200% of the federal poverty level. Based upon this I will remand this matter to the county agency to reinstate the petitioner and her husband's BadgerCare Plus retroactive to January 1, 2013, to end the premium charged for their children, and to set a premium for the petitioner and her husband.

### CONCLUSIONS OF LAW

The petitioner and her husband are eligible for BadgerCare Plus with a premium and their children are eligible without a premium because their total household income is less than 200% of the federal poverty level.

**THEREFORE, it is**

**ORDERED**

That this matter is remanded to the county agency with instructions that within 10 days of the date of this decision it reinstate the petitioner and her husband into the BadgerCare Plus program with a premium and end the premium assessed for their children. These actions shall be made retroactive to January 1, 2013. The agency shall credit any premium the petitioner has paid on behalf of her children to any premiums she owes. If the petitioner disagrees with the amount of the premium set for her and her husband's benefits, she may file a new appeal.

**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 18th 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**

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The preceding decision was sent to the following parties on April 18, 2013.

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