



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/149616

PRELIMINARY RECITALS

Pursuant to a petition filed May 28, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Walworth County Department of Human Services in regard to Medical Assistance, a telephonic hearing was held on July 08, 2013, at Elkhorn, Wisconsin.

The issue for determination is whether the county agency correctly discontinued the petitioner's BadgerCare Plus effective June 1, 2013, because she had access to private health insurance and that individual health insurance policy was offered by her employer at less than 9.5% of her total household income.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Mia Anderson-Inman, ES Supervisor
Walworth County Department of Human Services
W4051 County Rd NN
Elkhorn, WI 53121-1006

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Walworth County.
2. The petitioner lives with her daughter.

3. During May, 2013, petitioner submitted her six month report form (SMRF) and employment/income verification to the county agency which confirmed an increase in her earned income from her employer, [REDACTED] [REDACTED].
4. The petitioner receives monthly child support of \$450.00 for her daughter.
5. The petitioner's monthly earned income at [REDACTED] [REDACTED] is \$1,640.00, and she works at least 30 hours per week at that employment.
6. The petitioner's total household income is \$2,090.00 which exceeds 133% of the Federal Poverty Level (FPL).
7. During the full month of December, 2012, the petitioner's employer offered an open enrollment period to petitioner in which it offered health insurance subsidized by her employer. Her employer would pay 80% of the premium. Her monthly share of the premium would have been \$132, if she had enrolled in her employer's health insurance plan.
8. \$132 is less than 9.5% of the petitioner's monthly household income.
9. The petitioner did not enroll in her employer health insurance program.
10. The county agency sent a May 17, 2013 notice to the petitioner stating that her BadgerCare Plus benefits would discontinue effective June 1, 2013, due to petitioner had access to her employer's health insurance, and the monthly insurance premium was less than 9.5% of her monthly household income.

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. Beginning on July 1, 2012, those with access to health insurance in which their employer pays at least 80% of the premium are ineligible for BadgerCare Plus if their household income exceed 133% of the federal poverty. *BadgerCare Plus Handbook*, § 7.1. A second policy applies to new applicants, those with new employment, those who are completing their next review or renewal, or employed parents or caretakers added to the medical assistance group. This policy holds that those who **meet the following conditions are considered to have current access and thus are ineligible for BadgerCare Plus:**

- the individual could enroll in and be covered under the plan in the month for which eligibility is being determined, **and**
- the cost of coverage for the employee-only plan does not exceed 9.5% of the monthly household income.

BadgerCare Plus Handbook, §§ 7.1 and 7.3.3.

During the hearing, petitioner alleged that she was not aware of her employer's open enrollment period to sign up of its health insurance during December, 2012 for the 2013 year. However, "[t]here are no good cause reasons for not enrolling in a health insurance plan when an individual has current access." *Id.* The petitioner did not dispute that her household income exceeds 130% of the federal poverty level, that the monthly premium of \$132 would have been less than 9.5% of her household income. The petitioner was unable to refute the county agency's case. Accordingly, based upon the above, I must conclude that the county agency correctly discontinued the petitioner's BadgerCare Plus effective June 1, 2013, because she had access to private health insurance and that individual health insurance policy was offered by her employer at less than 9.5% of her total household income.

CONCLUSIONS OF LAW

The county agency correctly discontinued the petitioner's BadgerCare Plus effective June 1, 2013, because she had access to private health insurance and that individual health insurance policy was offered by her employer at less than 9.5% of her total household income.

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 6th day of August, 2013

\sGary M. Wolkstein
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

Wayne J. Wiedenhoef, Acting Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on August 6, 2013.

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