



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/150311

PRELIMINARY RECITALS

Pursuant to a petition filed June 25, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Eau Claire County Department of Human Services in regard to Medical Assistance, a hearing was held on July 24, 2013, at Eau Claire, Wisconsin.

The issue for determination is whether the agency correctly ended the petitioner's BadgerCare Plus benefits because she failed to verify the income of the father of one 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: Cathy Welke

Eau Claire County Department of Human Services
721 Oxford Avenue
PO Box 840
Eau Claire, WI 54702-0840

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Eau Claire County.
2. The petitioner lives with her two children in a house whose expenses are paid for entirely by the father of her younger child. His vehicle is registered to that address. He works out of town for the

railroad but stays with the petitioner whenever he returns from work. He does not pay child support because he has been determined to live with the petitioner.

3. When the petitioner failed to verify the income of the father of her younger child, the agency ended her BadgerCare Plus benefits as of July 1, 2013.

DISCUSSION

BadgerCare Plus expands medical assistance coverage to children under 19 and their parents or caretakers. Wis. Stat. § 49.471; *BadgerCare Plus Eligibility Handbook*, § 2.1. Like all those seeking medical assistance, BadgerCare Plus applicants must verify their family income within 30 days of the date they applied for benefits, or 10 days from the date the agency requests them to do so, whichever is later. Wis. Admin. Code, § DHS 102.03(3)(a). *BadgerCare Plus Eligibility Handbook*, § 9.2. Medical assistance agencies must deny benefits if a recipient “is able to produce required verifications but refuses or fails to do so.” Wis. Admin. Code § DHS 102.03(1). The statute pertaining to BadgerCare Plus states: “‘Family income’ means the total gross earned and unearned income received by all members of a family.” Wis. Stat. § 49.471(1)(f). It also states: “‘Family’ means all children for whom assistance is requested, their minor siblings, including half brothers, half sisters, stepbrothers, and stepsisters, and any parents of these minors and their spouses.” Wis. Stat. § 49.471(1)(e). If an unmarried couple have a child in common and live in the house, they are both part of the same household as their child. This means that they are considered part of the same BadgerCare Plus household as each other.

The county agency initially found the petitioner eligible for BadgerCare Plus and FoodShare after determining that the father of her younger child did not live with her. He works out of town for the railroad. However, he pays for all of the bills at the petitioner’s house, lists it as his permanent address for court documents and his vehicle registration, and returns and stays there whenever he is not working. He does not pay child support because the child support agency has determined that he lives with the petitioner. Based upon this, the county economic support unit determined that he was part of her household and requested that she verify his income. When she did not do so within 10 days, it ended her benefits as of July 1, 2013.

The petitioner does not dispute that her younger child’s father is part of her household. Her concern is that she will lose insurance coverage for her older child. There is no way to determine whether this is true without knowing his income, but her concern does not exempt her from providing the verification. When she does provide this verification, which she indicated she will do, the agency can determine her and her child’s eligibility. Until then, it must continue to deny those benefits.

CONCLUSIONS OF LAW

1. The father of the petitioner’s younger child is part of the petitioner’s household.
2. The county agency correctly ended the petitioner’s BadgerCare Plus benefits because she failed to verify the income of the father of her younger child.

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 29th day of July, 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 July 29, 2013.

Eau Claire County Department of Human Services
Division of Health Care Access and Accountability