



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/150661

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 16, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Winnebago County Department of Human Services in regard to Medical Assistance, a hearing was held on August 20, 2013, at Oshkosh, Wisconsin.

The issue for determination is whether the Department erred in termination petitioner from BadgerCare effective July 1, 2013.

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: Leslie Vosters

Winnebago County Department of Human Services  
220 Washington Ave.  
PO Box 2187  
Oshkosh, WI 54903-2187

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Winnebago County.
2. Petitioner underwent a review of her BadgerCare eligibility in June 2013. At that time, the agency was also seeking premium payment from petitioner. The case was pending eligibility

determination during the period that the premium was due. The premium for June was paid on July 1. The premium for July and August on July 31.

3. The agency then completed the remaining eligibility determination. As a result of this review the agency determined the petitioner had earned income of \$1,504.96 per month. Petitioner's husband had earned income of \$2,497.08 per month. The agency budgeted \$4,002.04 of earned income for the three person group.
4. The agency determined petitioner's household income in June determined by the data gathered as part of the review exceeded BC+ limits. On August 1, the agency sent notice of termination effective July 1, 2013.
5. Petitioner filed her request for hearing on July 16, 2013.

### **DISCUSSION**

At the time of hearing, the parties stipulated that the request for hearing may be interpreted as an appeal from the 8/1/13 notice. Petitioner indicated that she filed it earlier but based that action on her belief that termination was pending.

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 the discontinuance of petitioner's BadgerCare benefits 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 \$3,255 pursuant to the *Medicaid Eligibility Handbook* § 50.1, "FPL Tables."

Petitioner did not dispute the agency figures or the income limits. Accordingly, I must conclude that the county agency correctly discontinued the petitioner's BadgerCare benefits effective July 1, 2013 due to gross household income which exceeded the BadgerCare program's gross income eligibility limit for a household of three. Petitioner can reapply if her household income drops below the income limit.

### **CONCLUSIONS OF LAW**

The Department did not err in determining that petitioner's July income was over the eligibility limit for a household of three.

**THEREFORE, it is**

**ORDERED**

That this matter 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 9th day of October, 2013

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\sJohn P. Tedesco  
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 October 9, 2013.

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