



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCC/152399

PRELIMINARY RECITALS

Pursuant to a petition filed September 28, 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 November 11, 2013, at Neenah, Wisconsin.

The issue for determination is whether the respondent correctly terminated petitioner's Badger Care Plus Core (BCC) plan enrollment.

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, Room 651
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:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Winnebago County.
2. As part of petitioner's annual BCC renewal, the county agency requested that the petitioner verify certain information regarding his pension income.

3. The county agency notified the petitioner that his BCC plan benefits would end as of October 1, 2013, because he failed to complete his renewal.
4. The petitioner did not submit any information concerning his pension until October 3, 2013.
5. At that time, the respondent processed the pension income and determined that it could not re-open petitioner's case as his gross income exceeded 200% of the Federal Poverty Level.
6. Petitioner's gross monthly income is \$2,032.22.
7. Two hundred percent of the Federal Poverty Level for a single individual is \$1,915.00.

DISCUSSION

The petitioner received medical assistance through the BCC plan, which provides benefits to low-income persons without children under 19 years old. The medical assistance agency reviews the eligibility of those receiving benefits at least annually; recipients must renew their application at this time. *Wis. Admin. Code*, § DHS 102.04(3)(c). Medical assistance recipients must verify their income when they apply for benefits or renew their application. The Wisconsin Department of Health Services is charged with establishing the criteria for determining income under BadgerCare. *Wis. Stats.* §49.665(4)(a)1. An applicant 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. An individual who is already participating in BadgerCare maintains his eligibility if his income does not exceed 200% of the poverty line, *Id.* See also the *BadgerCare Plus Eligibility Handbook*, §43.7.2, Income and Resources.

The agency was conducting its annual review of the petitioner's BadgerCare Plus Core Plan benefits, and properly requested verification of the pension income reported by petitioner. When this did not timely arrive, petitioner was notified that his enrollment would terminate as of October 1, 2013. On October 3, 2013, respondent received the verification, but noted that petitioner's gross income exceeded 200% of the Federal Poverty level.

All available household income is counted in determining BadgerCare Plus eligibility unless some specific exception applies. *BadgerCare Plus Eligibility Handbook*, 16.1, "Income." The record before me discloses no exception which applies to the petitioner's earned or unearned income, and therefore all of petitioner's income must be counted in determining petitioner's BadgerCare Plus income eligibility.

In his appeal correspondence and during the hearing, the petitioner contended that it was not fair that he should not continue to be eligible for the BCC program because he needs medical benefits, and the Affordable Care Act is not fully accessible. The petitioner's argument is certainly understandable. However, petitioner's pension verification was not received until October 3, 2013, and petitioner concedes that his gross income of \$2,032.22 is above the BadgerCare income limit of \$1,915.00 for a household of one pursuant to the *BadgerCare Plus Eligibility Handbook* § 50.1. Accordingly, based upon the above, I conclude that the respondent correctly and properly discontinued the petitioner's BCC benefits effective October 1, 2013, due to household income above the gross income eligibility limits for a household of one.¹

¹ In post-hearing correspondence, petitioner requested that, in the event his appeal was denied, the respondent be required to refund premiums that were paid for October and November. As this request was made post-hearing, the record contains no information regarding these premiums, and the respondent was never afforded an opportunity to respond to same, I cannot make any ruling in this regard. It may very well be the case that benefits were continued pending this decision, and therefore premiums were, in fact, required. I do not have any information, however, that would confirm or deny this.

CONCLUSIONS OF LAW

The county agency correctly ended the petitioner's BadgerCare Plus Core Plan benefits due to household income in excess of eligibility limits.

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, Room 651, 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 16th day of December, 2013

\sPeter McCombs
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 December 16, 2013.

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