



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCB/152712

PRELIMINARY RECITALS

Pursuant to a petition filed October 08, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Dunn County Department of Human Services in regard to Medical Assistance, a hearing was held on November 20, 2013, at Menomonie, Wisconsin.

The issue for determination is whether the county agency correctly denied the petitioner's request that she receive retroactive BadgerCare Plus benefits.

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: Serena Stipek

Dunn County Department of Human Services
808 Main Street
PO Box 470
Menomonie, WI 54751

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Dunn County. She lives there with her husband and four minor children.

2. The petitioner applied for BadgerCare Plus on September 5, 2013, seeking benefits retroactive to August 1, 2013, for their child.
3. The petitioner had been receiving BadgerCare Plus benefits until they ended in July 2013 because an employer covered at least 80% of the health insurance premium.
4. The petitioner's husband lost his job along with the health insurance benefit provided by that job in September 2013. He was covered by health insurance in which his employer paid at least 80% of the premium until then.

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 depends 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 limit; children are ineligible if the household income exceeds 300% of the federal poverty level. Wis. Stat. § 49.471(4)(a). Those who are eligible for 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. Medical assistance eligibility can be made retroactive to "the first day of the month 3 months prior to the month of application." Wis. Admin. Code, § DHS 103.08(1). The *Medicaid Eligibility Handbook*, § 25.8.1, states the following in regard to retroactive eligibility:

Children ages 1 through 5 may have their eligibility backdated up to the first of the month, three calendar months prior to the month of application for any of the months in which their family income was at or below 185% FPL prior to December 31, 2013...In the case of children, certify the person for any backdate month in which s/he would have been eligible had s/he applied in that month and in which their assistance group income was at or below the appropriate FPL level for their age group.

The petitioner's family had been receiving BadgerCare Plus. Those benefits ended in July 2013 because an employer contributed at least 80% of the health insurance premium. The petitioner's husband lost his job in September 2013, and she reapplied for BadgerCare Plus on September 5, seeking benefits retroactive to August 1, 2013, so that her child's hospital bill would be covered. The agency denied the request for retroactive benefits because their total household income that month was \$8,660.93, or 329% of the federal poverty level. The petitioner contends that this overstates her household's income because her husband received three rather than his usual two paychecks that month. However, even if only two-thirds of his income is counted for that month, their income would be \$7,134.84, or 271% of the federal poverty level, which is well above the 185% it must be for the petitioner's child to receive retroactive benefits. *See Medicaid Eligibility Handbook*, § 50.1, for federal poverty level table.

But even if the family's income had been less than 185% of the federal poverty level, the child would be ineligible for retroactive benefits because she would not have been eligible if the petitioner had applied for the benefits in August instead of September. That is because her husband was still working in August and therefore eligible for subsidized health insurance. Based upon this, I must uphold the agency's denial of benefits.

CONCLUSIONS OF LAW

The petitioner's household is not eligible for retroactive BadgerCare Plus benefits in August 2013 because no one in the household would have been eligible if she had applied that month.

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 6th day of January, 2014

\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 January 6, 2014.

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