



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/153877

PRELIMINARY RECITALS

Pursuant to a petition filed December 05, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Manitowoc County Department of Human Services in regard to Medical Assistance, a telephonic hearing was held on February 03, 2014, at Manitowoc, Wisconsin. At the request of petitioner, a hearing set for January 13, 2014 was rescheduled. At the request of the parties, the record was held open for two weeks for the submission of county's closing argument by February 10, 2014, and then petitioner's response by February 17, 2014. ESS Free timely submitted her closing argument to DHA and petitioner which is received into the hearing record. Petitioner did not submit any response to DHA by February 17, 2014 or even by the date of this decision.

The issue for determination is whether the county agency correctly discontinued the petitioner's BadgerCare (BC) Plus benefits effective November 1, 2013, due to gross household income above the BC gross income eligibility limit for a household of three.

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: Alicia Free, ESS

Manitowoc County Department of Human Services
3733 Dewey Street
Manitowoc, WI 54221-1177

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Manitowoc County who resides with her husband, [REDACTED], and their child.
2. The petitioner received BadgerCare (BC) Plus benefits for her household of three.
3. The petitioner is employed as an assistant at [REDACTED] [REDACTED], and has monthly earned income of \$968.20 based upon her paystubs (October 20, 2013 and November 3, 2013).
4. [REDACTED] [REDACTED] is employed at [REDACTED] [REDACTED] [REDACTED], Inc. and has monthly income of \$2,500.96.
5. On or about October 14, 2013, [REDACTED] [REDACTED] received a year to date bonus of \$5,260.09 which was prorated to be \$250.48 semi-monthly for 21 semi-monthly pay periods per BadgerCare Plus Eligibility Handbook, 16.7, "Prorating Income."
6. During petitioner October 20, 2013 BC review, the county agency redetermined the petitioner's BC income eligibility.
7. The petitioner's household gross earned income of \$3,469.16 for October, 2013 was above the 200% Federal Poverty Limit (FPL) of \$3,255.00 for a BC household of three.
8. The county agency sent October 18, 2013 and November 26, 2013 notices to the petitioner stating that petitioner's BadgerCare Plus benefits would discontinue effective November 1, 2013 due to gross household income of \$3,469.16 which was above the gross income eligibility limit of \$3,255.00 for a BC group of three. That same notice stated that petitioner's child, Alexander, was eligible for the BadgerCare Benchmark Plan as of November 1, 2012 with a \$10.00 monthly premium.
9. The petitioner was unable to provide any reliable evidence to refute the county agency's determination that her household's gross income was above the gross income eligibility limits of \$3,255 for a household of three as of November 1, 2013.

DISCUSSION

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.***

The county agency ended BadgerCare Plus benefits effective November 1, 2013 for the petitioner's household of three after determining that their countable income exceeded 200% of the federal poverty level. For a three-person household this income limit is \$3,255.00. The agency determined that the petitioner's gross household income was \$3,469.16 as of November, 2013. This is higher (\$214.16) than the BC income limit for continued eligibility (in part due to adding petitioner's prorated portion of his "bonus" for the 21 pay periods).

In the instant appeal, the petitioner's case is an appeal of the November 1, 2013 discontinuance of petitioner's BadgerCare benefits for himself, 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 \$3,255.00 pursuant to the *Medicaid Eligibility Handbook* § 39.5, "FPL Tables" and the *BadgerCare Plus Eligibility Handbook*, §50.1, "FPL Tables." All available household income is counted in determining BadgerCare Plus eligibility unless some specific exception applies. BadgerCare Plus

Handbook, 16.1, "Income." As a result, the petitioner's household's income of \$3,469.16 for October, 2013 is all counted in determining the household's gross income eligibility.

During the February 3, 2014 hearing and in her closing argument and attachments, ESS Alicia Free explained how the county agency had calculated the petitioner's total gross household income to be \$3,469.16 during October, 2013 for a BC household of three. The petitioner failed to submit any closing argument or response to DHA regarding the county's submission. See above Preliminary Recitals. The petitioner was unable to provide any reliable evidence to refute that the county agency correctly calculated the household's gross income, and that such gross income was above the gross income eligibility limits of \$3,255.00 for a household of three as of November 1, 2013, pursuant to the *Medicaid Eligibility Handbook* § 39.5, "FPL Tables." Accordingly, for the above reasons, I must conclude that the county agency correctly discontinued the petitioner's BadgerCare (BC) Plus benefits effective November 1, 2013, due to gross household income above the BC gross income eligibility limits for a household of three.

CONCLUSIONS OF LAW

The county agency correctly discontinued the petitioner's BadgerCare (BC) Plus benefits effective November 1, 2013, due to gross household income above the BC gross income eligibility limits for a household of three.

THEREFORE, it is

ORDERED

The petition for review herein be and the same is hereby Dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 20th day of March, 2014

\sGary M. Wolkstein
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 March 20, 2014.

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