



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/154014

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 hearing was held on January 21, 2014, at Manitowoc, Wisconsin.

The issue for determination is whether the respondent correctly determined petitioner eligible for Medical Assistance (MA) subject to a monthly premium.

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

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Manitowoc County.
2. Petitioner resides with her husband and four children. Petitioner's husband is a Lawful Permanent Resident of the United States. Petitioner's husband has not been a Permanent

Residence for five years since his date of entry into the United States; thus he is ineligible for MA.

3. The county determined that petitioner was eligible for MA subject to a premium, based upon petitioner's household income in excess of the MA premium income limit.

DISCUSSION

To be eligible for BadgerCare+ MA, a person must be under age 19, a custodial parent, or the spouse of a custodial parent. Wis. Adm. Code, §DHS 103.03(1)(f)1. The BadgerCare+ program always uses gross income in making eligibility determinations. BC+ Handbook, § 16.1. If household income is above 133% of the poverty level, recipients must pay a monthly premium based upon income. Wis. Admin. Code, §DHS 103.085(1)(b); BC+ Handbook, § 19.1. If a recipient does not pay the monthly payment before the month after the end of the benefit month, the recipient may be ineligible for the program for twelve months. §DHS 103.085(3); BC+ Handbook, § 19.8.1.

The Department's BC+ policy further states as follows:

A parent residing with his or her child under the age of 19 must be in the same BC+ Test Group. This is true even when the legal custody of the child has been transferred to someone living outside of the home. The only exception is when someone's parental rights have been legally terminated.

...

BC+ Handbook, § 2.2.1.

A parent living with his child under age 19 must be included in the same BC+ test group. BC+ Handbook § 2.2.1. Further, the earned income of all household test group members over age 18 must be counted for the purpose of determining eligibility and premiums. BC+ Handbook, §16.4. Petitioner and her husband have a child in common. Accordingly, petitioner's husband's income must be counted for petitioner's BadgerCare+ test group.

Petitioner's husband's income was \$370 per week, and the monthly total would be that amount times 4 (the FoodShare program multiplies by 4.3 because there are slightly more than 4 weeks in a month, but MA only multiplies by 4). His month gross income thus would be \$1,480.00. Combined with petitioner's gross monthly income of \$1,469.44 and child support of \$592.92, the BadgerCare+ test group has monthly income of \$3,542.36. The program requires that adults pay a premium where household income is above 133% of the poverty level. For a family of six, 133% of the poverty level is \$3,501.23. As such, petitioner's household income exceeds the premium limit by \$41.13. The premium of \$106.00 is in accordance with BadgerCare+ program requirements. BC+ Handbook, § 48.1.2.

I must conclude, therefore, that the county correctly assessed a MA premium based upon the petitioner's household income.

CONCLUSIONS OF LAW

The county correctly calculated petitioner's household income, and as a result petitioner is required to pay a premium in the amount of \$106.00.

NOW, THEREFORE, it is ORDERED

That the petition for review herein be and the same is hereby 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 30th day of January, 2014

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 30, 2014.

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