



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCC/156167

PRELIMINARY RECITALS

Pursuant to a petition filed March 17, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Eau Claire County Department of Human Services in regard to Medical Assistance, a hearing was held on April 16, 2014, at Eau Claire, Wisconsin.

The issue for determination is whether the county agency correctly seeks to end the petitioner's BadgerCare benefits because her household's income exceeds 100% of the federal poverty level.

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: Sheila Morden

Eau Claire County Department of Human Services
721 Oxford Avenue
PO Box 840
Eau Claire, WI 54702-0840

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Eau Claire County.
2. The county agency notified the petitioner that her BadgerCare Plus Core Plan benefits would end on April 1, 2014, because that program was being discontinued. It also notified her that she would

not be eligible for BadgerCare Plus because her income exceeds 100% of the federal poverty level.

3. The petitioner lives with her husband. He receives \$1,240 per month in social security and she earns \$580 per month.
4. The federal poverty level for a two-person household is \$1,310.83. *BadgerCare Plus Handbook*, § 50.1.

DISCUSSION

The petitioner had been receiving BadgerCare Plus Core Plan benefits, which provided medical assistance to adults without minor children. The income limit was 200% of the federal poverty level. *BadgerCare Plus Handbook*, § 43.2. The governor and legislature ended that program as of April 1, 2014. Childless adults can now receive regular BadgerCare Plus benefits, but the governor and legislature reduced the maximum income allowed for eligibility from 200% to 100% of the federal poverty level. *BadgerCare Plus Handbook*, § 16.1. Those with income exceeding this amount are expected to seek benefits under the federal Affordable Care Act.

The petitioner lives with her husband. Their total income is \$1,820 per month; 100% of the federal poverty level is \$1,310.83. She contends that she cannot afford the Affordable Care Act's premiums. Although I understand this, I have no authority to ignore Wisconsin medical assistance law. That law clearly makes her ineligible under the state's new rules. Therefore, I must uphold the agency's decision.

CONCLUSIONS OF LAW

The petitioner is ineligible for BadgerCare Plus because her household income exceeds 100% of the federal poverty level.

THEREFORE, it is

ORDERED

The petitioner's appeal is 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 5th day of May, 2014

\sMichael D. O'Brien
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 May 5, 2014.

Eau Claire County Department of Human Services
Division of Health Care Access and Accountability