



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/156428

PRELIMINARY RECITALS

Pursuant to a petition filed March 27, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance, a hearing was held on April 30, 2014, at Racine, Wisconsin.

The issue for determination is whether Petitioner's income exceeds the BadgerCare Plus program's limit.

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: Rhonda Kramer

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. Petitioner filed this appeal to contest the discontinuance of BadgerCare+ eligibility as of April 1, 2014 for her and her husband because of income in excess of the BadgerCare+ income limit effective April 1, 2014. Petitioner's children continue to receive BadgerCare+.
3. Petitioner's household consists of herself, her husband and their three minor children.
4. 100% of the Federal Poverty Level (FPL) for a five-person household is \$2,325.83 per month. *BadgerCare Plus Handbook*, § 50.1.

5. Petitioner's husband is employed and, per his employer, works 20 hours per week and earns \$15.00 per hour. Thus his gross monthly income is \$1200.00.
6. Petitioner works and earns \$15.00 per hour. She submitted February 2014 paycheck stubs that indicated that she worked 70.79 hours in February and also received \$200.00 from a \$50.00 bonus and one-time \$150.00 cash award. Thus her February gross income was \$1261.85 (70.79 x \$15 + \$200).
7. The calculations noted at Finding #s 5 and 6 bring total gross household income to \$2461.85 (though the agency determined it to be \$2337.00 - is not clear how it arrived at this figure but may not have counted or fully counted the bonus income).
8. Petitioner also submitted information from her employer indicating that for the six months from September 2013 to February 2014 Petitioner worked 521 hours/8 minutes and had bonuses of \$625.00. These then average 86.8 hours per month and \$104 per month in bonuses. This would put Petitioner's average monthly income for those six months at about \$1394 (15 x 86 + \$104). Couple with her husband's gross income of \$1200.00 this would bring gross household income to about \$2594.00 per month.

DISCUSSION

BadgerCare Plus is Wisconsin's medical assistance program for those who are not elderly or disabled. Effective April 1, 2014, Wisconsin state law changed and lowered the amount of adjusted gross income a household can have and still be eligible for benefits to 100% of the Federal Poverty Level for adults and 300% for children. Wis. Stat. § 49.471(4)(a). The county agency determined that Petitioner and her husband are ineligible for BadgerCare Plus because their household income exceeds that new income limit.

As noted above, the Federal Poverty Level for a five-person household is \$2,325.83 per month. Petitioner's husband's income is clear. Though Petitioner's own income was high enough in February 2014 to push household income above the \$2325.83 income limit for adults, Petitioner contends that the agency overstated her income. She indicated that she worked extra hours for one of the February 2014 pay period.

The determination of eligibility for BadgerCare+, whether it is for the initial eligibility period or the next certification period, is made by estimating income based on the best available information. The past is a good indicator of future earnings unless a change can be demonstrated and documented. Here, based upon the information at Finding #s 5-8 I cannot find that Petitioner's household income was less than 100% of the applicable FPL of \$2325.83. Thus the county agency correctly determined that Petitioner and her husband are ineligible for BadgerCare+.

Mindful of the April 2014 Wisconsin law change reducing the income limit for adult BadgerCare+ eligibility, Petitioner may certainly reapply for BadgerCare+; especially, if circumstances have changed. That eligibility can possibly be backdated for up to three months if applicants meet eligibility criteria. *See BadgerCare+ Eligibility Handbook, §25.8.1.*

CONCLUSIONS OF LAW

That Petitioner and her husband are ineligible for BadgerCare+ as of April 1, 2014 because their household income exceeds the new 100% of the Federal Poverty Level income limit.

THEREFORE, it is

ORDERED

That this 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 Milwaukee,
Wisconsin, this 12th day of June, 2014

\sDavid D. Fleming
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 June 12, 2014.

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