



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/156683

PRELIMINARY RECITALS

Pursuant to a petition filed April 08, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Ozaukee County Department of Social Services in regard to Medical Assistance, a hearing was held on June 12, 2014, at Port Washington, Wisconsin.

The issue for determination is whether the Ozaukee County Department of Social Services (the agency) correctly terminated the Petitioner’s BadgerCare+ benefits effective April 1, 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Pahoua Vang, Economic Support Specialist
Ozaukee County Department of Social Services
121 W. Main Street
PO Box 994
Port Washington, WI 53074-0994

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Washington County.

2. On January 6, 2014, the Petitioner applied for healthcare benefits for herself, her husband and her two children. The Petitioner asked for a three month back date to October 2013. (Exhibit 2, pgs. 7-24)
3. On February 7, 2014, the agency sent the Petitioner a notice indicating:

For October 1, 2013 through November 30, 2013, no one on the household would be receiving health care benefits, because the household was over the program limit.

For the month of December, Petitioner and her husband would not receive benefits, because they were over the program limit, but their children would have benefits, without a premium.

For the month of January 2014, all four family members would be eligible for healthcare benefits without a premium.

(Exhibit 2, pgs. 37-42)

4. On March 17, 2014, the agency sent the Petitioner a notice indicating that as of April 1, 2014, Petitioner and her husband would no longer be enrolled in the BadgerCare+ Standard Plan, because their income was over the program limit. (Exhibit 2, pgs. 53-57)
5. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on April 8, 2014. (Exhibit 1)

DISCUSSION

BadgerCare Plus (BC+) is a state/federal program that provides health coverage for Wisconsin families. *BadgerCare + Eligibility Handbook (BEH) §1.1.1.*

Prior to April 1, 2014, parents and caretaker relatives needed to have gross income below 200% of the Federal Poverty Level (FPL) to qualify for the program. Effective April 1, 2014, adults needed to have a Medicaid Adjusted Gross Income (MAGI) below 100% of FPL, in order to continue receiving benefits. *BEH §16.1.1*

100% of FPL for a household of four is \$1,987.50 monthly. *BEH §50.1*

It is the agency's contention that Petitioner's household income exceeds 100% of the Federal Poverty Level and as such, neither she nor her husband is eligible for benefits.

For BadgerCare+ purposes, only actual gross monthly income is used. Estimated amounts using the 4.3 weekly pay period or 2.15 bi-weekly pay period multipliers are NOT used. *Process Help §16.4.1*; see also *Ops Memo 01-0*.

The Petitioner submitted two bi-weekly paystubs from her husband. One was dated March 7, 2014 showing gross income of \$1,300.61 with pre-tax deductions of \$86.74 for Health Insurance and \$21.51 for Dental Insurance. The second was dated March 21, 2014 and showed gross income of \$1,181.46 with pre-tax deductions of \$86.74 for health insurance and \$21.51 for Dental Insurance. (See Exhibit 2, pgs. 58 and 59)

Looking at the agency’s calculations, it looks like there might have been some minor errors in transposing numbers (i.e. the agency calculated 5.45 hours of overtime in the March 7 check, but it actually was 5.27 hours and the agency typed out 80.10 reg. hours worked for the March 21 check, but it was actually 80.06 hours worked). None-the-less, the agency’s ultimate determination that the Petitioner and her husband were over the income limit was correct.

Petitioner’s gross income before allowable deductions works out to be:

$$\$1,300.61 + \$1,181.48 = \$2482.09$$

Per BEH §16.3.2 certain deductions for insurance premiums that are withheld pre-tax from a paycheck, may be deducted from income when calculating Medicaid Adjusted Gross Income.

Thus, Petitioner’s monthly deduction for health and dental insurance premiums withheld from her husband’s paychecks works out to be as follows:

$$\$86.74 \text{ for Health Insurance} + \$21.51 \text{ for Dental Insurance} \times 2 \text{ bi-weekly paychecks} = \$108.25$$

As such, Petitioner’s MAGI income works out to be:

| |
|--|
| \$2482.09 gross income |
| -\$108.25 pre-tax withholding for health insurance premiums |
| <hr style="width: 20%; margin-left: auto; margin-right: 0;"/> \$2373.84 MAGI |

Petitioner’s Medicaid Adjusted Gross Income of \$2373.84 is over the 100% FPL, \$1,987.50 income limit. As such, Petitioner and her husband are not eligible for BadgerCare+ benefits.

CONCLUSIONS OF LAW

The agency correctly terminated BadgerCare+ benefits for Petitioner and her husband effective April 1, 2014.

THEREFORE, it is ORDERED

That the petition 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 10th day of July, 2014.

\sMayumi M. Ishii
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 July 10, 2014.

Ozaukee County Department of Social Services
Division of Health Care Access and Accountability