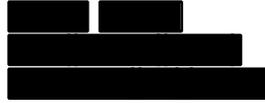




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/157915

PRELIMINARY RECITALS

Pursuant to a petition filed May 23, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Rock County Department of Social Services in regard to Medical Assistance, a hearing was held on June 17, 2014, at Janesville, Wisconsin. At the request of the petitioner, the record was held open to allow the petitioner time to submit additional information; employment information from petitioner’s employer was received and entered into the record as Exhibit 7.

The issue for determination is whether the respondent correctly terminated petitioner’s BadgerCare Plus benefits.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Lynette Scharine

Rock County Department of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

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

2. Petitioner filed a Six Month Report Form on February 3, 2014, wherein she reported employment information. Petitioner submitted three pay stubs, which were accepted by the respondent for income calculation purposes, at that time. Exhibit 2.
3. Income verifications received from petitioner's employer subsequently indicated income in excess of BadgerCare Plus program limits; on May 15, 2014 the county agency issued a notice of decision informing petitioner that her BadgerCare Plus would terminate as of June 1, 2014. Exhibit 5.
4. Petitioner appealed the termination of her BadgerCare Plus benefits on May 23, 2014. Exhibit 1

DISCUSSION

The current incarnation of *BadgerCare Plus* is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. The program's nonfinancial eligibility standards were broadened effective April 1, 2014, to include adults who do not have minor children in their home. Wis. Stat. § 49.45(23); 2013 Wisconsin Act 116, § 29, for effective date; *BadgerCare Plus Eligibility Handbook (BCPEH)*, §2.1, online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> (viewed in April 2014). The petitioner meets the nonfinancial eligibility tests for the program.

The petitioner must also pass an income test. Effective April 1, 2014, an eligible adult applicant cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1. The 100% FPL amount is \$972.50 monthly for a household of one, \$1,310.83 for a household of two persons, and \$1,649.17 for a household of three in 2014. *Id.*, § 50.1. The petitioner's income was budgeted by the respondent based upon the pay stubs provided initially, and by the employer provided pay information later. The latter calculation determined petitioner's gross monthly income to be \$1,316.12.

While the petitioner asserted the information submitted by her employer represented abnormal hours, she has not established an error on the part of the respondent. Furthermore, petitioner's employer's information does not demonstrate substantively fluctuating employment hours over the last several months. Exhibit 7. The respondent testified that petitioner had indicated that she was working 18-30 hours, and the employer-submitted documentation substantiated that. See, Exhibit 7. Based upon the record before me, I find no error on the part of the respondent in calculating petitioner's income.

As petitioner's income may fluctuate, petitioner should review the calculation page at the end of any notice of decision to determine whether the monthly income utilized by the county agency appears correct. If it does not, she should immediately contact the county for an explanation. The petitioner additionally testified that her employment would be ending at the end of June; obviously any change in her employment situation should be immediately reported to the respondent. The petitioner, of course, may file for a fair hearing if she does not agree with any future reductions.

CONCLUSIONS OF LAW

The respondent correctly determined petitioner's monthly income based upon the information provided by the petitioner's employer.

NOW, THEREFORE, it is

ORDERED

That petitioner's appeal be 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 21st day of July, 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 July 21, 2014.

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