



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted case name]

DECISION

BCS/158019

PRELIMINARY RECITALS

Pursuant to a petition filed May 30, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on June 11, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly determined that the Petitioner was not eligible for the BadgerCare+ Standard Plan as of April 1, 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted petitioner name and address]

Respondent:

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

By: Simone Johnson, Income Maintenance Specialist Advanced
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Milwaukee County.
2. On February 17, 2014, the agency sent Petitioner a notice indicating that effective April 1, 2014, he would not be enrolled in the BadgerCare + program because he was over the program limit. (Exhibit 8, pg. 21)

3. The Petitioner filed a request for fair hearing that was received on March 28, 2014. (Exhibit 1)

DISCUSSION

The BadgerCare+ Standard program used to be only for children and the adults who took care of them. However, 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; *BEH*, § 2.1, which can be viewed on-line at:

<http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm>

In order to be financially eligible for the BadgerCare+ program, an applicant cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. §49.45(23)(a); *BEH*, § 16.1. The 100% FPL amount is \$972.50 monthly for a household of one. *Id* at § 50.1.

According to the February 17, 2014 notice, the agency determined the Petitioner to have income from an Army/Navy Surplus Store, in the amount of \$156.00 per week and income of \$90.00 per week from a Kwik Stop. (Exhibit 8, pg. 23)

The calculation of Petitioner's income of \$156.00 per week from the surplus store appears to have been based upon an Employer Verification of Earnings Form, dated October 12, 2013. (Exhibit 8, pg. 51)

It is unclear from the record where the agency got the \$90.00 per week income calculation for Kwik Stop. The paystubs provided by the agency in Exhibit 8 pages 55-57 are all from the spring of 2013 and do not show income supporting a \$90.00 per week calculation.

Because the paystubs provided for Kwik Stop do not support the agency's calculations and because the based its income calculations upon potentially outdated information that was 6 months to 1 year old, one cannot conclude that the agency correctly calculated Petitioner's income for April 2014 eligibility. As such, one cannot conclude that the agency correctly determined Petitioner to be ineligible for the Badger Care+ Standard program as of April 1, 2014.

The agency will have to obtain more current income information and re-determine Petitioner's eligibility for the Badge Care+ Standard program. If Petitioner disagrees with that new determination, the Petitioner will have to file a NEW appeal.

CONCLUSIONS OF LAW

The agency did not correctly determine that the Petitioner was not eligible for the BadgerCare+ Standard Plan as of April 1, 2014.

THEREFORE, it is

ORDERED

That the agency 1) issue to the Petitioner a request for verification of his income for April 2014 forward, 2) immediately upon receipt of that verification, re-determine Petitioner's income and 3) issue to Petitioner a new notice, advising him whether he is eligible for Badger Care+ Standard plan benefits for April 1, 2014 forward. The agency shall take all administrative steps necessary to complete these tasks within 20-days of this decision.

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.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability