



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/160118

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 23, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Barron County Department of Human Services in regard to Medical Assistance, a hearing was held on September 23, 2014, at Barron, Wisconsin.

The issue for determination is whether the petitioner's household income exceeds the BadgerCare Plus 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: Candi Gillette

Barron County Department of Human Services  
Courthouse Room 338  
330 E LaSalle Ave  
Barron, WI 54812

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Barron County.
2. The county agency determined that the petitioner was ineligible for BadgerCare Plus as of September 1, 2014, because her household's income exceeded the program's limit.

3. The petitioner is a minor living with her parents. There are five persons in her household.
4. The petitioner's father earns \$8,808.62 per month. Of this, \$442.32 is deducted before taxes from insurance. Her mother earns \$160 per month.
5. For a five-person household, 306% of the federal poverty level is \$7,117. *BadgerCare Plus Handbook*, § 50.1.

### DISCUSSION

Children can receive BadgerCare Plus, Wisconsin Medicaid program for those who are not old or disabled, if their household's countable income does not exceed 306% of the federal poverty level. *BadgerCare Plus Handbook*, § 16.1. The county agency seeks to end the petitioner's eligibility because her parents' countable income exceeds this limit. The petitioner concedes this but contends that the agency did not consider a number of factors that stress her household's finances.

Countable income is determined by federal rules pertaining to modified adjustable gross income. These rules do not count pretax deductions taken directly from a person's paycheck, such as insurance and health savings accounts, as income. *BadgerCare Plus Handbook*, § 16.3.2. The petitioner's father earns \$8,808.62 per month, but has \$442.32 deducted for health insurance. Her mother earns \$160 a month. This means that their total countable income is \$8,526.30, which is 367% of the federal poverty level and well above the program's limit.

The petitioner's parents point out that two of their children have congenital birth defects that cost a lot to treat. They documented these problems thoroughly in a 5 ½ page letter submitted before the hearing. I have no doubt about their claims, but I have no authority to ignore the plain meaning of the law pertaining to BadgerCare Plus. Because the petitioner's household income exceeds the program's limit, the agency correctly determined that she is ineligible for its benefits.

I note as I told the petitioner's parents at the hearing that one or more of their children may be eligible for Katy Beckett, which provides medical assistance to severely disabled children who require the level of care provided in a nursing home.

### CONCLUSIONS OF LAW

The county agency correctly ended the petitioner's BadgerCare Plus benefits because her household's income exceeds 306% 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 10th day of November, 2014

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\sMichael D. O'Brien  
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 November 10, 2014.

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