



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

BCS/160809

PRELIMINARY RECITALS

Pursuant to a petition filed September 24, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Outagamie County Department of Human Services in regard to Medical Assistance, a telephone hearing was held on November 05, 2014.

The issue for determination is whether the respondent correctly denied backdated Medical Assistance enrollment for the month of July, 2014.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

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

By: Charity Herron

Outagamie County Department of Human Services
401 S. Elm Street
Appleton, WI 54911-5985

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # Redact) is a resident of Outagamie County.
2. The petitioner applied for BadgerCare +, and requested a three month backdate of eligibility.

3. The county agency certified the petitioner's children for June and also for August-ongoing. Petitioner was denied for June-ongoing, and the children were denied for July due to income exceeding program limits.
4. Petitioner appealed asserting that the receipt of three paychecks in the month of July was not an accurate representation of her household income.

DISCUSSION

Prior to April 1, 2014, the income limit for BC+ was 200% of the FPL. State law changed effective April 1, 2014 following the passage of 2013 Wisconsin Act 20. As of that date the limit for caretaker parents was reduced to 100% of the FPL, which, for a four-person household is \$1,987.50 and for a one-person household is \$972.50. See Wis. Stat., §49.471(4)(a)4.b for the new law, and the BC+ Handbook, Appendix 50.1 for the limit. The new law also changed how income is budgeted. Now income is budgeted based upon tax relationships as well as family relationships, and income is based upon taxable income under Modified Adjusted Gross Income (MAGI) rules. Handbook, App. 2.8.2, definition of "MAGI." The changes occurred as of April 1, 2014 for new applicants, and when current recipients completed reviews.

The petitioner did not dispute the actual mathematical calculations done by the county agency. The specific issue raised at the hearing was the determination to deny Medical Assistance benefits for the month of July, 2014. The county agency denied those benefits because petitioner's monthly household income exceeded program limits. The petitioner noted that the income calculations were based on her actual income in July, which was a three paycheck month, unlike the use of two paychecks, on average, as was normally done when income is budgeted prospectively.

While a county agency must use prospective income to test for ongoing eligibility for BadgerCare +, here it did have the Petitioner's actual income available for July, 2014. The practice of prospective budgeting requires flexibility in determining income so as to determine future eligibility for benefits, but does not require that the prospectively determined income supersede actual income where available.

If certifying for retroactive BC+, do not go back further than the first of the month, three months prior to the application month. Certify the person for any backdate month in which s/he would have been eligible had s/he applied in that month. In the case of children, certify the person for any backdate month in which s/he would have been eligible had s/he applied in that month and in which their assistance group income was at or below the appropriate FPL level for their age group.

BadgerCare + Handbook § 25.8.1.

Based upon the foregoing, I am unable to conclude any error on the part of the respondent in determining backdated BadgerCare + eligibility for petitioner's household.

CONCLUSIONS OF LAW

The county agency correctly budgeted the petitioner's income for July, 2014.

NOW, THEREFORE, it is **ORDERED**

That the petition for review herein be and the same is hereby 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 5th day of December, 2014.

\sPeter McCombs
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 December 5, 2014.

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