



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/161577

PRELIMINARY RECITALS

Pursuant to a petition filed October 27, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Waukesha County Health and Human Services in regard to Medical Assistance, a hearing was held on December 09, 2014, at Waukesha, Wisconsin.

The issue for determination is whether Waukesha County Health and Human Services (the agency) correctly denied the Petitioner's application for BadgerCare+ benefits for the month of July 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



By [redacted]
his authorized representative



Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Kathy Jones, Economic Support Specialist
Waukesha County Health and Human Services
514 Riverview Avenue
Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Waukesha County.

2. On August 15, 2014, the Petitioner completed an on-line ACCESS application for healthcare benefits, seeking coverage from July 2014 forward. (Exhibit 2)
3. On September 6, 2014, the Petitioner provided the agency with two bi-weekly paystubs, one dated July 21, 2014, showing gross income of \$707.56, with \$45.76 in deductions for health and dental insurance and one dated August 4, 2014, showing gross income of \$585.88, with \$45.76 in deductions for health and dental insurance. (Exhibit 5)
4. On September 10, 2014, the agency sent the Petitioner a notice advising him that he was enrolled in BadgerCare+ as of August 1, 2014, but that his application for July 2014 was denied, because his household income was over the program limit. (Exhibit 4)
5. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on October 27, 2014.

DISCUSSION

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

Effective April 1, 2014, an adult must have household income must be below 100% the Federal Poverty Level, in order to be eligible for the BadgerCare+ health plan and all available gross income must be counted. *BEH §16.1* 100% of FPL for a household of one person is \$972.50 per month.

It is the agency's contention that Petitioner's household income exceeded 100% of the Federal Poverty Level in July 2014, and as such, he is not 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 01-01* However, per *BEH §16.3.2*, certain deductions from gross income are allowed, if the applicant has pre-tax deductions from their paycheck for health insurance premiums.

On September 6, 2014, the Petitioner provided the agency only one bi-weekly paystub for July, which was dated July 21, 2014, showing gross income of \$707.56, with \$45.76 in deductions for health and dental insurance. The second paystub provided by the Petitioner was for the month of August and as such, should be counted for that month, not for July.

In order to determine the Petitioner's income for July 2014, one needs to have both of the Petitioner's bi-weekly paystubs from July 2014.

Consequently, the agency will have to further verify the Petitioner's income for July 2014 and then make a new eligibility determination for that month.

If the Petitioner disagrees with that new determination, he will have to file a NEW request for fair hearing.

CONCLUSIONS OF LAW

The agency did not correctly deny the Petitioner's application for BadgerCare+ benefits for July 2014.

THEREFORE, it is

ORDERED

That the agency issue to the Petitioner a request for verification of his July 2014 income. Upon receipt of the verification, the agency shall make a new eligibility determination and shall issue to the Petitioner a new notice of decision, advising him of that new determination. The agency shall take all administrative steps to complete these tasks within 20 days of this decision.

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 Milwaukee,
Wisconsin, this 18th day of December, 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 December 18, 2014.

Waukesha County Health and Human Services
Division of Health Care Access and Accountability