



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

BCS/162185

PRELIMINARY RECITALS

Pursuant to a petition filed November 11, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the DHS Cares Call Center in regard to Medical Assistance, a hearing was held on December 17, 2014, at Chilton, Wisconsin. This matter was delayed by several months as a result of the federal government's loss of the hearing request. In November, 2014, the respondent noted that petitioner's name was identified as one who had filed an appeal, and this matter was duly set for hearing.

The issue for determination is whether the respondent correctly determined that petitioner was not eligible for BadgerCare Plus enrollment effective April 1, 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

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

By: Redact
DHS Cares Call Center
Madison, WI

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # Redact) is a resident of Calumet County.
2. The county agency notified the petitioner that his BadgerCare Plus benefits would end on April 1, 2014, because his income exceeds 100% of the federal poverty level.

3. The petitioner lives with his wife and two children in an assistance group of 4 people. He receives \$3,238.00 per month in unearned income.
4. The federal poverty level for a four-person household is \$1,987.50. *BadgerCare Plus Handbook*, § 50.1.

DISCUSSION

The petitioner had been receiving BadgerCare Plus benefits, which provided medical assistance to adults with minor children. The income limit was 200% of the federal poverty level. *BadgerCare Plus Handbook*, § 43.2. The governor and legislature ended that program as of April 1, 2014. Adults can now receive regular BadgerCare Plus benefits, but the governor and legislature reduced the maximum income allowed for eligibility from 200% to 100% of the federal poverty level. *BadgerCare Plus Handbook*, § 16.1. Those with income exceeding this amount are expected to seek benefits under the federal Affordable Care Act.

The petitioner lives with his wife and two children. Their total household income is \$3,238.00; all of that income is unearned; 100% of the federal poverty level for a four-member household is \$1,987.50. As a result, petitioner and his wife are no longer enrolled in BadgerCare Plus, but the children remained enrolled. Petitioner contends that he is disabled, and is awaiting a disability determination. Information was submitted corroborating his disability claim, however, absent a final determination that petitioner is disabled, the respondent is unable to include that factor in its analysis. The petitioner further argues that his income should not be counted as it constitutes “class J” income that is untaxable. I have reviewed the list of disregarded income identified at *BadgerCare Plus Handbook*, § 16.2, and I cannot find that the petitioner has established that his income would qualify under any of those income types. While I empathize with petitioner’s situation, I have no authority to ignore Wisconsin medical assistance law. That law clearly makes him and his wife ineligible under the state’s BadgerCare Plus eligibility rules. Therefore, I must uphold the agency’s decision.

CONCLUSIONS OF LAW

The petitioner and his wife are ineligible for BadgerCare Plus because their household income exceeds 100% 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 27th day of January, 2015.

\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 January 27, 2015.

DHS Cares Call Center
Division of Health Care Access and Accountability

Redact @dhs.wisconsin.gov