



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/162402

PRELIMINARY RECITALS

Pursuant to a petition filed December 02, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance, a hearing was held on January 08, 2015, at Racine, Wisconsin.

The issue for determination is whether the Racine County Department of Human Services (the agency) correctly denied the Petitioner’s application for BadgerCare+ benefits.

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: Rhonda Kramer, Lead Economic Support Specialist
Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. On November 26, 2014, the agency processed a BadgerCare+ application for the Petitioner that it received from the Federally Facilitated Marketplace (FFM). (Exhibit 4)

3. On November 28, 2014, the agency sent the Petitioner a notice advising him that his application for benefits was denied because he was over the income limit. (Exhibit 8)
4. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on December 2, 2014. (Exhibit 1)
5. Petitioner’s test group size consists only of one person. He claims no other dependents on his taxes. (Testimony of Petitioner)
6. Petitioner provided two bi-weekly check stubs. The first, dated October 22, 2014, showed gross income of \$802.55. The second, dated November 5, 2014, showed gross income of \$908.45, for total monthly income of \$1711. (Exhibit 7)

DISCUSSION

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

Effective April 1, 2014, an adult must have household income below 100% the Federal Poverty Level (FPL), in order to be eligible for the BadgerCare+ health plan and all available gross income must be counted. *BEH §16.1* Prior to this, the income limit was 200% of FPL. *Id.*

It is the agency’s contention that Petitioner’s household income exceeds 100% of the Federal Poverty Level and as such, he is not eligible for benefits.

100% of FPL for an assistance group size of one is \$972.50 per month. *BEH §50.1.*

Petitioner testified that, except for the overtime pay, the paystubs that were marked as Exhibit 7 accurately reflect his earned income. Those paystubs show gross monthly income of \$1711. (See Finding of Fact #6, above) This is over the 100% FPL, \$972.50 income limit for BadgerCare+ eligibility.

Even if one deducts the overtime pay, which was \$108.45 on the October 22, 2014 check and \$2.55 on the November 5, 2014 check, that still leaves \$1600.00 in income:

\$1711.00
-\$108.45
- \$2.55
\$1600.00

\$1600 is still over the over the 100% FPL, \$972.50 income limit. Consequently, the agency correctly denied the Petitioner’s application for BadgerCare+ benefits.

Petitioner should note that if he applies for insurance through the Federally Facilitated Marketplace (FFM) and is rejected because his income is too low, he may be eligible for benefits through the “Gap Filling” rules. *BEH §16.1.4*

Because of differences between the methods used by the FFM and State agencies to calculate income, there are some individuals whose income will be too low to qualify for insurance through the FFM but too high to qualify for state programs, like BadgerCare+. “Federal regulations require states to enroll such individuals in Medicaid under a policy called ‘gap filling’ based on a monthly equivalent of their expected annual income. Local agencies should contact the DHS CARES Call Center if a member is ineligible for APTCs based on his or her annual income, but ineligible for BC+ based on current monthly income.” *BEH §16.1.4*

If this happens, the Petitioner should contact the agency right away and provide verification of his rejection from the FMM.

Petitioner expressed concern about losing his healthcare benefits, because he is a diabetic. The American Diabetes Association Website has a list of pharmaceutical assistance programs that help diabetics obtain medication and testing supplies at no cost or reduced cost, depending upon the product:

<http://www.diabetes.org/living-with-diabetes/health-insurance/prescription-assistance.html>

CONCLUSIONS OF LAW

The agency correctly denied the Petitioner's application for BadgerCare+ benefits.

THEREFORE, it is ORDERED

That the petition 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 Milwaukee,
Wisconsin, this 4th day of February, 2015.

\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 February 4, 2015.

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