



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/163080

PRELIMINARY RECITALS

Pursuant to a petition filed December 30, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Wood County Human Services - WI Rapids in regard to Medical Assistance, a hearing was held on February 16, 2015, at Ashland, Wisconsin.

The issue for determination is whether the department correctly ended the petitioner's BadgerCare Plus 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: Beulah Garcia

Wood County Human Services - WI Rapids
320 West Grand Avenue
PO Box 8095
Wisconsin Rapids, WI 54495-8095

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Ashland County.

2. On October 13, 2014, the department notified the petitioner that he must complete his BadgerCare Plus renewal application by November 30, 2014, or there could be a gap in his coverage.
3. There are three persons in the petitioner's household.
4. The petitioner provided paystubs from [REDACTED] on November 6, 2014.
5. The Centralized Data Processing Unit indicated that it sent the petitioner's completed renewal to the county agency at 12:00 a.m. on December 1, 2014. There is no stamp on the renewal indicating when it was received.
6. On December 11, 2014, the Department requested the petitioner to provide paystubs from [REDACTED] for the last 30 days by December 31, 2014. This notice indicated that the request pertained to "Family Planning Services."
7. On December 11, 2014, the department notified the petitioner that his household's BadgerCare Plus would end as of December 1, 2014, because he had not completed his renewal. It also notified him that his benefits would end from December 1 – 31, 2014, and as of January 1, 2015, because his income exceeded the program's limit.
8. The department never notified the petitioner that his benefits would end because he did not verify his income after December 11, 2014.
9. The petitioner's monthly income is \$1,351.50.
10. The federal poverty level for a three-person household is \$1,649.17. *Medicaid Eligibility Handbook*, § 39.5.

DISCUSSION

This case arises because of a misunderstanding over the petitioner's employment and income. The department notified him on October 13, 2014, that he must renew his BadgerCare Plus benefits by November 30, 2014. BadgerCare Plus is Wisconsin's medical assistance program for those who are not blind or disabled. Wis. Stat. § 49.471. The petitioner works for the company that publishes the local newspaper in Ashland. On November 6, 2014, he verified his income by providing the agency with his paystubs from "[REDACTED]." Six days later, on the form he submitted to renew his FoodShare benefits, he indicated that he worked at "[REDACTED]." Then when he submitted his BadgerCare Plus renewal he indicated that he worked for "[REDACTED]." All three of these titles refer to the same employer, but the department assumed he worked for two separate companies, earning \$1,351.50 a month at each, or \$2,703, rather than the correct total of \$1,351.50.

On December 11, 2014, the agency notified the petitioner that his household's BadgerCare Plus would end as of December 1, 2014, because he had not completed his renewal. It also notified him that his benefits would end from December 1 – 31, 2014, and as of January 1, 2015, because his income exceeded the program's limit. On December 11, 2014, it also requested that he verify income from the "[REDACTED]" for "Family Planning Services" by December 31, 2014. Family Planning Services is a version of medical assistance with limited benefits for those whose income exceeds the BadgerCare Plus limit but is below 306% of the federal poverty level. *BadgerCare Plus Handbook*, § 40.1.

I will first address whether he completed his renewal on time. According to the *BadgerCare Plus Handbook*, § 26.3, "If the renewal is not completed by the end of the certification period, the case will close." As mentioned, the petitioner had to complete his renewal by the end of November 2014. The department contends that he filed his renewal on December 1, 2014. His online application does not have a date-stamp indicating when it arrived. It does contain a notice from the Centralized Data Processing Unit to him indicating that "your application was sent to the following local agency in your county/tribe on December 1, 2014 at 12:00 AM." Twelve a.m. is midnight, which is the beginning of a day. If the

agency sent it then, it had to receive it before then, even if the space between receiving and sending it was only a moment. Because any time before December 1, 2014, at 12:00 a.m. was November 30, 2014, or earlier, and the renewal application was due by November 30, 2014, the petitioner filed his renewal application on time.

Although the notice only gave two reasons for ending the petitioner's BadgerCare Plus benefits—not filing his renewal on time and being over the program's income limit—the department now contends that his benefits also ended because he did not verify his income as the agency requested on December 11, 2014 and instead filed an appeal. Medical assistance recipients do have to verify their income. Wis. Admin. Code, § DHS 102.03(3). And if the petitioner had submitted additional verification of his income, it may have cleared up the double-counting of his income because he would have presented a paystub showing the same employer as the previous paystubs. Or it might not have cleared anything up: The person reviewing the paystub may have assumed that he was not verifying his “new” source of income but merely resubmitting his “old” one.

Regardless, the department cannot deny his benefits for failing to verify his income when the notice ending his benefits did not provide lack of verification as a reason for the discontinuance. Furthermore, there would have been no basis for the notice to indicate that lack of verification was a basis for ending his benefits. That notice was sent on December 11, 2014, the same date the request for verification was sent in the medical assistance matter. The verification request gave him until the December 31, 2014, to comply with it. The agency could not notify him on December 11 that it was ending his benefits for failing to comply with a request that was not due for 20 days. Related to this, because Family Planning Services provides fewer benefits than BadgerCare Plus, the agency would only request verification to determine Family Planning eligibility if it had not already determined—without the need for verification—that his income made him ineligible for BadgerCare Plus. This, then, presents an additional reason his alleged failure to verify his income had nothing to do with the denial of his BadgerCare Plus benefits.

The last issue is whether his income is within the BadgerCare Plus limit. Effective April 1, 2014, the governor and legislature lowered the amount of adjusted gross income a household can have and still be eligible for benefits to 100% of the federal poverty level for adults and 300% for children. Wis. Stat. § 49.471(4)(a). For a three-person household, the size of the petitioner's, the federal poverty level is \$1,649.17 per month. *BadgerCare Plus Handbook*, § 50.1. As shown, the petitioner's income is \$1,351.50. Because this is below the poverty level, his household is eligible for benefits retroactive to the date those benefits ended.

CONCLUSIONS OF LAW

The petitioner's household is eligible for BadgerCare Plus because its income is below the federal poverty level.

THEREFORE, it is

ORDERED

That this matter is remanded to the county agency with instructions that within 10 days of the date of this decision it reinstate the petitioner's household into the BadgerCare Plus program retroactive to December 1, 2014.

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 February, 2015

\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 February 27, 2015.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability