



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/165658

PRELIMINARY RECITALS

Pursuant to a petition filed April 22, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Polk County Department of Social Services in regard to Medical Assistance, a hearing was held on June 15, 2015, at Balsam Lake, Wisconsin.

The issue for determination is whether the petitioner is ineligible for BadgerCare Plus because his household income exceeds the program's limit.

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: Mary Jo Hacker

Polk County Department of Social Services
100 Polk County Plaza, Suite 50
Balsam Lake, WI 54810

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Polk County.
2. On March 12, 2015, the county agency notified the petitioner that he was eligible for BadgerCare Plus as of March 1, 2015. That notice also indicated that his children could not receive benefits as part of his household because they already received them as part of their mother's. Finally, the

notice indicated that the petitioner would not receive benefits as of April 1, 2015, because his income exceeded the program's limit.

3. The petitioner's income is \$1,920 per month.
4. The federal poverty level for a two-person household is \$1,327.50; for a three-person household it is \$1,674.17. *BadgerCare Plus Handbook*, § 50.1.

DISCUSSION

BadgerCare Plus is Wisconsin's medical assistance program for those who are not elderly or disabled. The county agency ended the petitioner's benefits because his household income is too high. Adults are ineligible if their household income exceeds the federal poverty level, which increases as household size increases. Wis. Stat. § 49.471(4)(a). The petitioner has two children and contends that the agency incorrectly allowed his former wife to include both of them in her household despite an agreement that each parent should be able to claim one child.

The agency did indicate that the petitioner's children were receiving their benefits as part of their mother's household. But this did not affect his benefits because it determined his eligibility on the assumption that his household had two persons, which meant that it included one of his children. The federal poverty level for a two-person household is \$1,327.50. *BadgerCare Plus Handbook*, § 50.1. His income exceeds this at \$1,920 per month. And he would remain ineligible even if both of his children were considered part of his household because the federal poverty level for a three-person household is \$1,674.17. *Id.* Based upon this, I must uphold the agency's decision.

CONCLUSIONS OF LAW

The petitioner is ineligible for BadgerCare Plus because his 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 6th day of July, 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 July 6, 2015.

Polk County Department of Social Services
Division of Health Care Access and Accountability