



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/165754

PRELIMINARY RECITALS

Pursuant to a petition filed April 30, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on June 16, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly ended the BadgerCare+ benefits for the adults in Petitioner's household, effective May 1, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Pang Thao-Xiong
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Milwaukee County.
2. On February 5, 2015, the Petitioner submitted an Employer Verification of Earnings from, showing that she worked 40 hours per week at \$11.50 per hour. For monthly income of \$1840:

40 hours x \$11.50 = \$460 per week

\$460 x 4 weeks = \$1840.00 monthly income.

(Exhibit 2, pg. 14)

3. On February 23, 2015, Petitioner's husband began receiving unemployment benefits in the amount of \$138 per week for monthly income of \$552 (\$138 x 4 weeks). (Exhibit 2, pg. 16)
4. On April 11, 2015, Petitioner's case was auto-updated with the unemployment income. (Exhibit 2, pgs. 10 and 16)
5. On April 17, 2015, the agency sent the Petitioner's husband a notice, indicating that as of May 1, 2015, the adults in the household would no longer be enrolled in the BadgerCare+ program, because their income was over the program limit. (Exhibit 2, pgs. 23-29)
6. The Petitioner's two children remained enrolled in the program without a premium. (Id.)
7. The Petitioner filed an appeal that was received by the Division of Hearings and Appeals on April 30, 2015. (Exhibit 1)
8. In May 2015, the Petitioner received two paychecks, one dated May 8, 2015 for \$881.39 and one dated May 22, 2015 for \$783.63, for total monthly income of \$1665.02 (\$881.39 + \$783.63). (Exhibit 3)
9. The Petitioner's pay checks show pre-tax deduction for dental insurance (\$25.11); Vision insurance (\$8.21); Long Term Disability (\$.60); and Short Term Disability (\$4.92). So, her total pre-tax deductions are \$38.84 per bi-monthly paycheck or \$77.68 per month. (Exhibit 3)

DISCUSSION

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

Prior to April 1, 2014, parents and caretaker relatives needed to have gross income below 200% of the Federal Poverty Level (FPL) to qualify for the program. Effective April 1, 2014, adults needed to have a Medicaid Adjusted Gross Income (MAGI) below 100% of FPL, in order to continue receiving benefits. *BEH §16.1.1*

100% of FPL for a household of four is \$2,020.83 monthly. *BEH §50.1*

It is the agency's contention that Petitioner's household income exceeds 100% of the Federal Poverty Level and as such, neither she nor her husband is 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 period multipliers are NOT used. *Process Help §16.4.1*; see also *Ops Memo 01-0*.

In addition, per BEH §16.3.2 certain deductions that are withheld pre-tax from a paycheck may be deducted from income when calculating Medicaid Adjusted Gross Income. Deductions allowed on page one of IRS form 1040 are also allowed. *BEH §16.3.3*

Petitioner's household income for May works out as follows:

	\$1665.02 earned income
-	\$77.68 pre-tax deductions for insurance, etc.
+	\$552 Unemployment Insurance Benefits

 Total Income: \$2139.34

Petitioner income of \$2139.34 exceeds the 100%FPL income limit of \$2020.83. Consequently, neither she nor her husband was eligible for benefits in May 2015.

At the hearing, the Petitioner indicated that her husband might stop receiving unemployment benefits, if he is determined to be disabled and therefore, unable to work. If Petitioner's income goes down, she can file a new application for benefits. Otherwise, if she has applied for health insurance on the Marketplace and been turned down because her income is too low, she might be eligible for gap coverage. If that is the case, the Petitioner would need to provide the agency with the letter from the Marketplace denying her insurance subsidies.

The Petitioner argued that her income should be averaged, because her hours fluctuate and she provided six pay stubs to demonstrate this. I note, however, that the paychecks for May 2015 were the two smallest paychecks. If I averaged out income over those six paychecks Petitioner's monthly earned income works out to be as follows:

March 13, 2015	\$982.33
March 27, 2015	\$948.52
April 10, 2015	\$956.66
April 24, 2015	\$967.38
May 8, 2015	\$881.39
May 22, 2015	\$783.63

Total:	\$5519.91
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$\$5519.91 \div 6 \text{ checks} = \$919.99 \text{ average income per check}$
 $\$919.99 \times 2 \text{ pay periods per month} = \$1839.98 \text{ average monthly income}$

Petitioner's averaged earned income (\$1839.98) is higher than the actual earned income (\$1665.02) used in the eligibility determination above. So, Petitioner would still be found over the income limit, even if her income was averaged.

CONCLUSIONS OF LAW

The agency correctly ended BadgerCare+ benefits for the Petitioner and her husband, effective May 1, 2015.

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 17th day of July, 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 July 17, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability