



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/168320

PRELIMINARY RECITALS

Pursuant to a petition filed August 27, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Dane County Department of Human Services in regard to Medical Assistance, a hearing was held on September 23, 2015, at Madison, Wisconsin. At the request of petitioner, the record was held open for the submission of consecutive written closing arguments by the agency and by petitioner. Those closing arguments are received into the hearing record.

The issue for determination is whether the county agency correctly and accurately calculated the petitioner's BadgerCare (BC) Plus premium to be \$101 effective September 1, 2015, due to an increase in petitioner's household's income for a BC group of three.

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: [REDACTED], ESS lead worker
Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County who has primary placement of her four children. Her ex-husband and the father of her children is [REDACTED].
2. The petitioner received BadgerCare (BC) Plus benefits for herself and two of her children for a BC household of three. Petitioner only claimed those two children on her taxes for health care purposes. The petitioner is intending to file taxes for 2015, and her two children who are her tax dependents for 2015.
3. The petitioner's other two children are being claimed on the taxes of her ex-husband, [REDACTED].
4. The Department of Workforce Development notified the county agency to investigate whether petitioner failed to timely report to the county agency her employment and income from two of her employers, [REDACTED] ([REDACTED]) and [REDACTED]. See Exhibit 1.
5. The county agency sent a July 2, 2015 Notice of Action and Proof Needed to the petitioner requesting verification of her employment and income from three employers: a) [REDACTED]; b) [REDACTED] ([REDACTED]); and c) [REDACTED] by the due date of July 13, 2015. Petitioner did not submit the verification by July 13, 2015, but did provide the verifications by July 29, 2015.
6. The employer verifications confirm the following income to the petitioner as a part-time instructor for the following institutions for September, 2015: a) [REDACTED] - \$800 lump sum payment for her work on a quarterly basis from July through September, 2015; b) [REDACTED] - \$309.86 every other week for a total of \$619.72 for September, 2015; and c) [REDACTED] - irregular work of about 2 hours per week for a total of \$129 for September, 2015.
7. The petitioner received weekly Unemployment Compensation (UC) benefits of \$241 as of September, 2015.
8. The petitioner received during September, 2015 monthly child support unearned income of \$187.50 for each of her four children.
9. The petitioner's BadgerCare (BC) counted income of \$2,512.72 was above the BC premium limit of \$1,674.17 for September, 2015, and thus she owed a monthly BC premium of \$101 effective September 1, 2015. See Exhibit 2.
10. Based upon the submitted verification, the county agency determined that petitioner's household was above the BC premium income limits of \$1,674.17 for a BC household of three.
11. The county agency sent an August 10, 2015 Notice of Decision to the petitioner stating she owed a BadgerCare (BC) Plus premium of \$101 effective September 1, 2015, due to petitioner's BadgerCare (BC) counted income of \$2,512.72 was above the BC premium limit of \$1,674.17 for September, 2015, and thus she owed a monthly BC premium of \$101 effective September 1, 2015. See Exhibit 2.

DISCUSSION

Beginning February 1, 2014, BadgerCare Plus eligibility determination use the Modified Adjusted Gross Income (MAGI) rules. MAGI rules are based upon the concept of an individual's tax household, not necessarily upon the physical household or family relationships per BC Handbook, 2.3.2. The MAGI rules went into effect when the petitioner completed her renewal for BC benefits during July, 2015. The petitioner's test group is a household of three since she is only claiming two of her children as dependent

on her taxes per BC Handbook, 2.3.2.1: “If the individual is a tax filer and is not being claimed as a dependent by anyone else, then the individual’s MAGI group consists of the tax filer, the tax filer’s spouse, and any dependents the tax filer is claiming.”

In this case, petitioner’s total earned income for September, 2015 was \$1,548.72. Her total unearned income was \$964 with combined earned and unearned income of \$2,512.72. The income limit for an individual claiming two children is \$1,674.17.

The BadgerCare Eligibility Handbook provides the following:

2.3.2 MAGI Test Group

Beginning February 1, 2014, BadgerCare Plus eligibility determinations will use Modified Adjusted Gross Income (MAGI) rules. MAGI rules are based on the concept of an individual’s tax household, not necessarily on the physical household or family relationships.

Note: Whether or not someone is a tax filer or is a dependent of a tax filer is based on what the individual plans to do for the current calendar year’s taxes, not on what he or she is required to do based on IRS tax law. For example, many individuals file taxes even though they are under the filing threshold because they want to receive their full tax refund or to qualify for the Earned Income Tax Credit. If a member reports that they plan to file taxes, we will treat them as a tax filer in the test group, even if they are below the threshold for being required to file.

All new applicants with a filing date on or after February 1, 2014 will be tested only using MAGI rules. Ongoing beneficiaries will transition to MAGI rules at their next scheduled renewal or April 1, 2014, whichever is later.

An ongoing beneficiary is someone who:

- Applied prior to February 1, 2014,
- Was eligible for March 2014, and
- Remained eligible under the new income limits after April 1, 2014.

Note: Ongoing cases that had a renewal in January or February of 2014 will transition to MAGI rules the next time eligibility is run by the worker for the month of April 2014 or later.

2.3.2.1 Forming the Test Group using MAGI Tax Filing Rules

All MAGI groups are based on a “target” individual. Each person who can become eligible for BadgerCare Plus on the application will be a target during the eligibility determination for a case.

Tax Filers

If the individual is a tax filer and is NOT being claimed as a dependent by anyone else, then the individual’s MAGI group consists of the tax filer, the tax filer’s spouse, and any dependents the tax filer is claiming.

Out-of-the-Home Tax Dependents

A tax filer is able to claim individuals who live outside of their home as their tax dependents. Common examples include college students and other adult children, elderly parents, or siblings who do not live with the filer(s). Tax filers can also claim a deceased child as his or her tax dependent in the year that the child has died. In these instances, the

deceased child would be included in the tax filer's group size, though the child would not be eligible for benefits on that application.

Deceased Co-Filers

It is possible for an individual to file his or her taxes jointly with a deceased spouse for the taxable year in which the spouse died. However, unlike deceased tax dependents, they will not be included as a household member.

Household Members in the Military

Deployed military members are still considered part of a tax household. Under MAGI rules, the military member's taxable income will count in the household, and he or she will also be included in the household's group size, as appropriate. If a household member is absent due to military activity, he or she may be included in the group size, but will not be eligible for assistance on this case.

Married Couples

Married individuals who are living together are always included in each other's group size, even if they are filing taxes separately. If a married couple is living apart but filing jointly, the couple is included in each other's group size. If the married couple is living apart and filing taxes separately, or are not planning to file taxes, do not include them in each other's group size.

Tax Dependents

In general, a tax dependent's household will be the same as his or her tax filer's household, even if the tax dependent is also a tax filer. However, if any of the following situations apply, then the tax dependent's eligibility is based on MAGI relationship rules:

1. The individual is being claimed as a dependent by a parent outside of the home (a non-custodial parent is defined as a parent who is living apart from the parent applying for benefits for the child),
2. The individual is being claimed as a dependent by someone who is not their parent; or
3. The individual lives with both parents and his or her parents are not married filing jointly.

2.3.2.2 Forming the Test Group Using MAGI Relationship Rules

Individuals who meet one of the exceptions to the MAGI tax filing rules or who are not tax filers or tax dependents will have their eligibility determined using MAGI relationship rules.

Under relationship rules, only include individuals who are living in the home with the target. If the target individual is under 19, then the target's group includes the target's parents, the target's spouse, the target's siblings under age 19 (including step and half siblings), and the target's children.

If the target individual is over age 19, the target's group includes the target's spouse and the target's children under age 19.

In the instant case, during the hearing, the county agency representative, ESS [REDACTED], presented testimony and evidence that the county agency correctly determined petitioner's monthly BadgerCare premium to be \$101 as of September 1, 2015 based upon the increase in household income as set forth in the above Findings of Fact. During that hearing and in the petitioner's her written closing argument, the petitioner alleged that some exception might apply to her circumstances whereby she would not owe a BC

premium of \$101 as of September 1, 2015. However, ESS [REDACTED] correctly responded that the “exceptions” noted above apply to the tax dependent(s), and not the tax filer. The petitioner is the tax filer.

In addition, petitioner alleged that the “Tax Rule exceptions” might apply since two of her children are being claimed by a parent (her ex-husband) outside of her home. However, the exception is only used to determine eligibility for the two children whom the petitioner will not be claiming per BC Plus Handbook CH. 2.3.2.1.1 under tax dependents.

The petitioner was unable to provide any evidence to refute the agency’s case or that her household’s September, 2015 income was \$2,512.72 which is above the premium income limit of \$1,674.17 for a household of three. It should be noted that all of the petitioner’s children remain under the BC income eligibility limits, and continue to be eligible for BC Plus. Accordingly, based upon the above, I conclude that the county agency correctly determined that petitioner owed a monthly BadgerCare premium of \$101 as of September 1, 2015.

CONCLUSIONS OF LAW

The county agency correctly and accurately calculated the petitioner’s BadgerCare (BC) Plus premium to be \$101 effective September 1, 2015 due to an increase in petitioner’s household’s income for a BC group of three.

THEREFORE, it is

ORDERED

The petition for review herein be and the same is hereby 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.

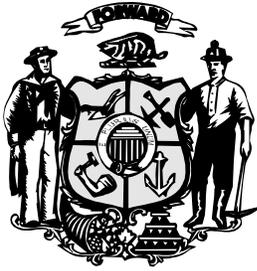
APPEAL TO COURT

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 8th day of December, 2015

\sGary M. Wolkstein
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 December 8, 2015.

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