



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/168430

PRELIMINARY RECITALS

Pursuant to a petition filed September 01, 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 commenced on September 24, 2015 via phone. That hearing was rescheduled to give Petitioner a chance to submit and, the agency an opportunity to review, new financial information. The matter reconvened on October 21, 2015.

The issue is whether Petitioner household income is in excess of income limits for BadgerCare+ coverage for her daughter.

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: Jose Sylvestre
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Milwaukee County.
2. Petitioner filed this hearing request to contest the denial of a July 2015 BadgerCare+ application for Petitioner's daughter. Petitioner and her husband are covered through the Federal marketplace. The denial was based on an alleged failure to verify. At the first hearing date it was apparent that

Petitioner had submitted what was available but had updated information so the hearing was adjourned to give the agency a chance to review that information.

3. Petitioner and her spouse are instructors at [REDACTED] They have no summer income but are under contract from September through December and January through May.
4. The agency reevaluated the case with the new information submitted by Petitioner and determined that she and her husband are contractual employees and that total gross household income is \$6519.00.
5. Petitioner's household consists of 4 people – Petitioner, her husband, their child and an unborn child.

DISCUSSION

BadgerCare+ is Wisconsin's Medicaid program for those who are not elderly or disabled. Effective April 1, 2014, Wisconsin state law changed and 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)*. This change was to be effective January 1, 2014 but was held off until April 1 to assure coordination with other changes in healthcare options; especially the Affordable Care Act.

Petitioner and her spouse are contractual employees, thus income is prorated over the term of the contract. *BadgerCare+ Eligibility Handbook (BEH), §16.4*. Petitioner and her spouse are covered through the Federal Marketplace but seek coverage for their child. The group size here is 4 as the unborn child is counted as part of the household. See *BadgerCare+ Eligibility Handbook (BEH), §2.3.1.3. § 300%* of the Federal Poverty Level for a group of 4 is \$6062.50 as of February 1, 2015. *BadgerCare+ Eligibility Handbook (BEH), §50.1*.

Petitioner's gross income is in excess of the \$6062.50 limit but I also note that under modified adjusted gross income rules the following deductions from page 1 of Federal Tax Form 1040 are allowed:

1. Student Loan Interest
 2. Higher Education Expenses
 3. Self-employment Tax Deduction
 4. Spousal Support, Alimony or Maintenance
 5. Teachers' Tax-Deductible Expenses
 6. Self-employed SEP, Simple or Qualified Plan Contributions
 7. Penalties for Early Withdrawal of Funds
 8. Performing Artists Tax-deductible Expenses
 9. Military Reserve Members' Tax-deductible Expenses
 10. Out-of-pocket Costs for a Job-related Move
 11. Loss from Sale of Business Property
 12. Individual Retirement Account (IRA) Contributions
 13. Fee-based Official Tax-deductible Expenses
 14. Domestic Production Activities Deduction
 15. Allowable Write-in Expenses
- See BEH, §16.3.3.*

Further, the following pretax payroll deductions are allowed:

1. Health Insurance premium payments, including pre-tax premium payments for medical, dental or vision plans
2. Health Savings Account (including flexible spending accounts) contributions
3. Retirement contributions
4. Parking & Transit costs
5. Child Care Savings Account contributions
6. Group Life Insurance premium payments

See BEH, §16.3.2.

There is no evidence that these deductions are involved here but it was not discussed at hearing either. If Petitioner reviews these income adjustments and her tax returns and realizes there are deductions, she should note the rehearing instructions below.

CONCLUSIONS OF LAW

That Petitioner's BadgerCare+ application was correctly denied as the available evidence demonstrates that income is over the BadgerCare+ income limits.

THEREFORE, it is **ORDERED**

That this 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 Milwaukee,
Wisconsin, this 15th day of December, 2015

\sDavid D. Fleming
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 15, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability