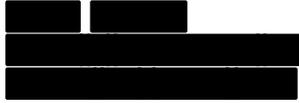




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/169548

PRELIMINARY RECITALS

Pursuant to a petition filed October 21, 2015, 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 November 18, 2015, at Washburn, Wisconsin.

The issue for determination is whether the petitioner's household income makes her household ineligible for BadgerCare Plus benefits.

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: [Redacted]

Wood County Human Services - WI Rapids
220 Third Avenue South
Suite 4
Wisconsin Rapids, WI 54495

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [Redacted]) is a resident of Bayfield County.
2. The county agency ended the petitioner's BadgerCare Plus benefits as of October 1, 2015, because it anticipated that her household earnings would be 100.67% of the federal poverty level.

3. There are five persons in the petitioner's household.
4. The petitioner is a school bus driver. She is not paid if she misses work.
5. The petitioner has diabetes and an amputated toe.
6. The federal poverty level for a five-person household is \$2,367.50 per month.
7. The petitioner and her husband both work for a school bus company. He also is a farmer. Their likely future income is less than \$2,367.50 per month.

### DISCUSSION

BadgerCare Plus is Wisconsin's medical assistance program for those who are not elderly or disabled. Adults are ineligible if their household income exceeds the federal poverty level. That level for a five-person household, the size of the petitioner's, is \$2,367.50 per month. Wis. Stat. § 49.471(4)(a); *BadgerCare Plus Handbook*, § 50.1. The county agency ended their benefits after she returned to work as a bus driver in the fall because it assumed her total household income would increase to \$2,383.57, or 100.67% of the federal poverty level.

The petitioner's concern is a medical bill she incurred early in October, but the only question I can consider is whether her household income is within the federal poverty level. The petitioner is paid only for days she works. The county agency assumed she would not miss any days. Although she testified that she does not get sick very often, if she misses just one day of work in a semester, her household income will fall below the poverty level. She has diabetes that led to an amputated toe, and at least whether bad enough to cancel school during the winter is normal in Wisconsin. While none of this is certain, the evidence suggests that she is more likely to miss at least one day of work than make all of them. Based upon the best interpretation of the evidence before me, I find that her household remains eligible for BadgerCare Plus.

### CONCLUSIONS OF LAW

The petitioner remains eligible for BadgerCare Plus benefits because her anticipated household income is less than 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 the date those benefits ended.

### **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 9th day of December, 2015

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\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 December 9, 2015.

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