



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: BCS - 216058

PRELIMINARY RECITALS

Pursuant to a petition filed on November 26, 2024, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services regarding Medical Assistance (MA), a hearing was held on January 9, 2025, by telephone.

The issue for determination is whether the agency properly terminated Petitioner's BadgerCare Plus as of November 1, 2024.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Michelle Olusegan
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Teresa A. Perez
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a 21-year old resident of Milwaukee County who previously received BadgerCare Plus as a single person assistance group from August 1, 2023 through October 31, 2024.

2. On September 20, 2024, Petitioner notified the agency that he is enrolled in college full time, that he had stopped working at [REDACTED], and that he had started working for [REDACTED].
3. Petitioner works for [REDACTED] on an as needed basis. As of the date of the hearing in this matter, he had worked for them on two occasions, once on August 20, 2024 and once on September 28, 2024 and was not scheduled to do any further work for that entity.
4. On September 23, 2024, the agency mailed Respondent a request to verify his earned income by October 14, 2024.
5. On October 14, 2024, Petitioner provided to the agency an e-mail from [REDACTED] which stated Petitioner is an independent contractor rather than an employee, that he had begun “contract work” on September 28, 2024 and that he worked “as needed.” In addition, Petitioner provided an Invoice dated August 20, 2024 that indicated that “[REDACTED]” (i.e., [REDACTED]) paid him \$137.50 for production assistance work performed from 12:00 – 5:30 on that date.
6. On October 18, 2024, the agency mailed a request to Petitioner to provide proof of monthly income and expenses for [REDACTED] by November 6, 2024 and included the following notation: “Examples: Enclosed Self-Employment Income Report form or bookkeeping records.”
7. By notice dated October 16, 2024, the agency informed Petitioner that his BadgerCare Plus would end on November 1, 2024 because he did not provide required proof of his “employment at [REDACTED] including: Expected monthly income before taxes or deductions and number of hours worked per pay period.”
8. In or around the second week of November 2024, Petitioner began working three hours per week in a work study job at [REDACTED] where he is enrolled in school. He earns \$12 per hour and is paid every other week. He received gross pay of \$36 on November 22, 2024, \$72 on December 6, 2024, and \$78 on December 20, 2024.
9. On November 26, 2024, Petitioner filed a request for fair hearing regarding the agency’s decision to terminate his BCP coverage.

DISCUSSION

To be eligible for BCP, individuals must have income that is less than the applicable program income limit. Parents and caretakers of minor children as well as childless adults are subject to an income limit of 100% of the federal poverty level (FPL). *BadgerCare Plus Eligibility Handbook (BCPH)* §16.1.1. Generally, the test group size of a tax filer who is not being claimed as a tax dependent by another individual includes himself, his spouse (if any), and all of his tax dependents. *BCPH* §2.3 and 42 C.F.R. §435.603(f)(1). As of February 2024, the income limit for a one-person test group was \$1,255 per month (i.e., \$15,060 per year). Wis. Stat. § 49.45(23)(a); *BCPH* § 50.1. That amount increased to \$1,304.17 as of February 1, 2025 (\$15,650 per year). *Id.* Individuals may also be found eligible for BCP if their annual income is reasonably expected to be under 100% FPL even if their income in particular months exceeds 100% FPL. See *BCPH* §16.9.

Individuals must verify income when applying for BCP benefits and when there is a change in circumstance that affects eligibility or benefit level. Wis. Admin. Code § DHS 102.03(3)(a) and *BCPH* §9.9.6. If an individual “is able to produce required verifications but refuses or fails to do so”, the benefits will be denied or terminated. Wis. Admin. Code § DHS 102.03(1). Program policy requires the agency to “[a]dvise the applicant of the specific verification required.” *BCPH* §9.2. In the event an individual fails to produce verification within specified timeframes after receiving an “adequate notice of the verification required” and if the requested verification is required to determine current eligibility, the agency may deny or terminate benefits. *BCPH* §9.11.4; See also, Wis. Admin. Code § 102.03(1).

In this case, the agency ended Petitioner’s BCP after he reported that he had begun working for [REDACTED] because the agency concluded that he had failed to provide adequate proof of his income and expenses even though Petitioner provided invoices showing that he had earned \$100 in August 2024 and just a little more than that in September 2024 as well as a statement from [REDACTED] confirming that Petitioner performed work only on an “as needed” basis. The agency representative contended that because the income was contract pay rather than wages, Petitioner had to submit self-employment report forms. The agency’s written verification requests did not, however, say that he must submit a SEIRF; one of those requests indicated that SEIRFs were an example of what could be used to comply with the agency’s request. SEIRFs, however, are much better suited for gathering information about more traditional types of self-employment that have associated expenses (i.e., rental businesses, construction businesses). Petitioner’s work, as a 21 year old student for [REDACTED], on an as needed, very limited basis did not have associated expenses. He thus had nothing requiring verification.

Petitioner made a good-faith effort to comply with the agency’s verification requests regarding contract or “self-employment income” by submitting both the letter from [REDACTED] and the invoice of the minimal pay he received on the two days he worked there. Given Petitioner’s efforts to comply and the fact that the traditional form for gathering information regarding self-employment income was not a good match for this circumstance, the agency should have reached out to Petitioner to clarify that they were seeking information regarding his expenses and/or to know whether his income would be ongoing. Had the agency done so, it would have discovered that Petitioner had in fact provided all the documentation available about his unpredictable, limited work for [REDACTED].

Moreover, the evidence in the record established that Petitioner’s income from [REDACTED] did not exceed the BCP income limit in November 2024 or December 2024, even in combination with the work study income from [REDACTED] that he began to earn after the agency ended his benefits on November 1, 2024.

For the reasons set forth above, I am remanding this matter to the agency to approve Petitioner for BCP as of November 1, 2024.

CONCLUSIONS OF LAW

Because Petitioner did not receive adequate notice of the verification required and because Petitioner’s income remained under the BCP as of November 1, 2024, his BCP was not correctly terminated.

THEREFORE, it is

ORDERED

That the matter is remanded to the agency to: (1) approve Petitioner for BadgerCare Plus effective November 1, 2024, and (2) send Petitioner written notice that it has done so. These steps must be taken within ten days from the date of this decision.

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, 4822 Madison Yards Way, 5th Floor North, 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.

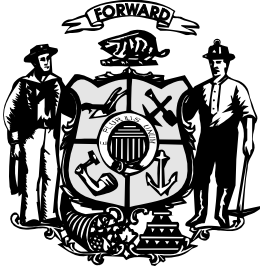
APPEAL TO COURT

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, **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 14th day of February, 2025

\s _____
Teresa A. Perez
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 February 14, 2025.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability