



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: BCS - 174375

PRELIMINARY RECITALS

Pursuant to a petition filed on May 16, 2016, under Wis. Stat. § 49.45(5)(a), to review a decision by the Kenosha County Human Service Department regarding Medical Assistance (MA). The hearing was held on June 16, 2016, by telephone.

The issue for determination is whether the agency correctly closed BadgerCare Plus (BC+) Medicaid for Petitioner's children because private insurance through Petitioner's employer is available to them.

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: [REDACTED]
Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.

2. In April 2016, the agency reviewed Petitioner's BadgerCare+ eligibility. The agency received an update that Petitioner's employer offered family coverage insurance for the children and that the employer paid 80% of the monthly premium.
3. By a notice dated April 27, 2016, the agency informed Petitioner that BadgerCare+ for the children would end because of access to private insurance.
4. Petitioner's household consists of herself and 2 children.
5. Petitioner has family planning waiver coverage and that has not been affected here.

DISCUSSION

To be eligible for BC+, a person must be under age 19, a custodial parent, or the spouse of a custodial parent. Wis. Admin. Code, §DHS 103.03(1)(f)1. The person is ineligible if he or she has health insurance or has access to employer-sponsored insurance. §DHS 103.03(1)(f)2 and 3.

The Department's *BadgerCare+ Eligibility Handbook (BEH)*, Appendix 7.3.2, describes how insurance affects BC+ eligibility:

7.3.2 The 80 Percent Current Access Test

Children and BadgerCare Plus Prenatal Program members with access to health insurance, including access due to a [qualifying event](#), through an employed family member who is currently living in the household are not eligible for BadgerCare Plus benefits if:

1. The access is to a [HIPAA](#) health insurance plan through a current employer for which the employer pays at least 80% of the premium or the State of Wisconsin's health care plan (regardless of plan type, or premium amount contributed by state or local government); **and**
2. The [applicant](#) /member is a child under age 19 and the child is not exempt; **and**
3. The coverage would begin within three calendar months following:
 - a. The BadgerCare Plus application [filing date](#); **or**
 - b. Annual review month; **or**
 - c. Employment start date

The child or BadgerCare Plus Prenatal Program member who could have been covered by the health insurance plan are ineligible for BadgerCare Plus benefits. Children under 19 years of age can become eligible by meeting a [deductible](#). (See [Ch. 17](#))

There are no good cause reasons for not enrolling in a health insurance plan when an individual has current access.

...

Here the employer records do show that the employer pays more than 80% of the premium. A loss of BadgerCare+ is typically an event that permits access to the employer plan outside of the open enrollment process. I conclude, therefore, that the agency has demonstrated that the BadgerCare+ eligibility for Petitioner's children was correctly discontinued.

CONCLUSIONS OF LAW

That the agency has demonstrated that Petitioner’s children are ineligible for BadgerCare+ because they have access to Petitioner’s employer-subsidized insurance.

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, **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 27 day of July, 2016

\s _____
David 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 July 27, 2016.

Kenosha County Human Service Department
Division of Health Care Access and Accountability