



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]

DECISION

BCB/142285

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 10, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Washington County Department of Social Services in regard to Medical Assistance, a hearing was held on September 04, 2012, at West Bend, Wisconsin.

The issue for determination is whether petitioner is ineligible for BadgerCare coverage due to the availability of employer-provided health insurance.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

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

By: Renee Zabel, ESS

Washington County Department of Social Services  
333 E. Washington Street  
West Bend, WI 53095

**ADMINISTRATIVE LAW JUDGE:**

Michael A. Greene  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Washington County.
2. Petitioner was covered by Medical Assistance under the BadgerCare Plus program.

3. On April 23, 2012, petitioner commenced employment with the Wisconsin Department of Corrections. As part of her employment, petitioner was eligible for health insurance through her employer effective July 1, 2012.
4. On May 15, 2012, petitioner completed a review at which time she reported her new employment to the agency.
5. On May 16, 2012, the agency sent petitioner a notice of decision advising her that her MA coverage would end as of June 1, 2012 due to her access to employer-provided health insurance.

### **DISCUSSION**

Wisconsin's Medical Assistance (MA) is a series of programs designed to provide basic and necessary medical care to various segments of the state's population. Children, parents and caretakers of children and pregnant women in lower-income households are generally eligible for MA through the BadgerCare Plus program while those who are elderly, blind or disabled receive coverage under Medicaid.

Wisconsin statutes provide that individuals who have access to health insurance through an employer who pays at least 80% of the premium or through employment with the State of Wisconsin are ineligible for BadgerCare Plus. Specifically,

...[A]n individual whose family income exceeds 150 percent of the poverty line is not eligible for BadgerCare Plus if...

1. The individual has individual or family health insurance coverage that is...
  - b. Coverage under the state employee health plan....
3. The individual could be covered under the health insurance coverage specified in subd.1 if the coverage is applied for, and the coverage could become available to the individual in the month in which the individual applies for benefits under this section or in any of the next 3 calendar months.

Wis. Stat. §49.471(8)(b). Current policy applies the three month window to the three calendar months following an initial application for MA, a review month or the applicant's first day of employment, *BadgerCare + Eligibility Handbook*, Ch. 7, ¶7.3.2. Since coverage is subject to periodic review, each review is in effect an application for a renewed period of coverage. Thus, petitioner was ineligible for BadgerCare Plus if employer-provided coverage began within three calendar months of the month in which she submitted her application to renew her MA coverage. Given a review date of May 15, 2012 and the fact that coverage from her employer would begin within three months, that is on July 1, 2012, petitioner was not eligible for BadgerCare coverage as provided in the notice of decision.

### **CONCLUSIONS OF LAW**

Petitioner became eligible for qualifying employer-provided health care coverage within three months of her application for renewal of her BadgerCare benefits; petitioner was therefore not eligible for continued BadgerCare coverage.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and hereby is dismissed.

## REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 5th day of October, 2012

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Michael A. Greene  
Administrative Law Judge  
Division of Hearings and Appeals

c: Washington County Department of Social Services - email  
Department of Health Services - email



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on October 5, 2012.

Washington County Department of Social Services  
Division of Health Care Access and Accountability