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[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

BCS/142298

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 11, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance/BadgerCare Plus (BCP), a hearing was held on August 09, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly denied BCP benefits to the Petitioner between April 23, 2012 - May 31, 2012.

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: Belinda Bridges

Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner has a household size of three including herself and two minor children.

3. Petitioner was employed with [REDACTED] from August, 2011 through March 30, 2012. She commenced employed with [REDACTED] on April 2, 2012. The Petitioner reported the employment changes to the agency.
4. On April 18, 2012, the agency issued a Notice of Decision to the Petitioner that her BCP benefits would end on May 1, 2012 due to failure to complete her renewal.
5. On April 20, 2012, the agency received an employment verification from [REDACTED] verifying that Petitioner's income is \$1000/month.
6. On April 24, 2012, the agency issued a Notice of Proof Needed to the Petitioner. The notice informed the Petitioner that it required verification of Petitioner's current employment status with [REDACTED] by May 3, 2012. The notice informed the Petitioner that failure to provide the proof by the due date could affect her BCP benefits and Family Planning Services.
7. On May 4, 2012, the agency issued a Notice of Decision to the Petitioner informing her that her application of September 15, 2009 for BCP was denied and her BCP benefits ended on May 1, 2012 because she did not provide requested verifications and because she was earning more money. The income calculated by the agency included \$1000/month from [REDACTED] and \$990/month from [REDACTED] for total monthly income of \$1,990.
8. On June 26, 2012, the Petitioner reapplied for BCP benefits. All necessary verifications were provided and BCP benefits resumed effective June 1, 2012.
9. A verification from [REDACTED] verified that Petitioner's employment ended on March 30, 2012. The verification was dated April 16, 2012. The verification does not have a date stamp of date of receipt by the agency.
10. The Petitioner and her children had no BCP services or claims submitted to BCP between May 1, 2012 and June 1, 2012.
11. On July 11, 2012, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### DISCUSSION

Proof of certain information, including income, is required to determine eligibility for BadgerCare Plus. Verification is required when there is a change in circumstance that affects eligibility or benefit levels. BCP Handbook § 9.1. When a change is reported that requires verification, the member must be notified in writing of the specific verification required and allowed a minimum of ten days to provide it. BCP Handbook § 9.4. Agencies must stamp the receipt date on each piece of verification received. BCP Handbook § 9.11.1.

In this case, the agency issued a Notice of Proof Needed to the Petitioner on April 24, 2012 notifying her of the need to provide verification of her employment status at [REDACTED] by May 3, 2012. It notified her that failure to provide the proof could result in benefits being denied, decreased or ended.

The agency testified that it did not receive the requested verification by May 3, 2012. The agency testified that it received the verification in June, 2012. The verification submitted by the agency at the hearing is signed and dated by the employer on April 16, 2012. There is no date stamp indicating when it was received by the agency. The Petitioner testified that she had made a request of her former employer to provide the verification and believed that they had done so by the due date. Post-hearing, she submitted a statement from the employer that the verification was faxed to the agency on or about April 16, 2012 but the employer was unable to provide any documentation as proof of the date it was faxed.

It is the Petitioner's responsibility to ensure that verifications are submitted on a timely basis to the agency. In turn, it is the agency's responsibility to date stamp receipt of the verification. In this case, the

Petitioner presented credible evidence that the verification was submitted on or about April 16, 2012. The agency did not provide evidence of the date of receipt.

The evidence is such that it is difficult to determine if the requested verification was submitted in a timely manner. Ultimately, I find that the issue here is moot. The Petitioner had no services or claims during the period that her BCP was closed. Finding in favor of the Petitioner would not have any practical effect since there are no services to cover or reimburse. Likewise, finding in favor of the agency would have no adverse effect on the Petitioner. In essence, there is no issue to be remedied.

### **CONCLUSIONS OF LAW**

The issue of whether the Petitioner's BCP benefits were improperly terminated by the agency for the period of April 23, 2012 – May 31, 2012.

**THEREFORE, it is ORDERED**

That the petition 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 21st day of September, 2012

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Debra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals

c: Milwaukee Enrollment 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 September 21, 2012.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability