



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

BCS/143006

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 13, 2012, under Wis. Stat., §49.45(5)(a), to review a decision by the Oconto County Dept. of Health And Human Services in regard to Medical Assistance (MA), a hearing was held on September 27, 2012, by telephone.

The issue for determination is whether the agency correctly denied BadgerCare Plus (BC+) because of restrictive re-enrollment.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

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

By: Bonita Schaut

Oconto County Dept. of Health And Human Services  
501 Park Avenue  
Oconto, WI 54153-1612

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Oconto County.
2. On March 28, 2012, after a review, the county agency notified petitioner that she would have to pay a \$178 BC+ premium beginning April 1, 2012.
3. On April 18, 2012, the county sent a notice informing petitioner that BC+ for her and her husband would end May 1, 2012 because they had not paid the premium.

4. After getting the notice petitioner contacted her county worker to report that income had decreased. The worker requested verification of the change.
5. By a notice dated May 8, 2012, the county informed petitioner that BC+ for the entire household would end June 1, 2012 because petitioner did not provide the requested verification.
6. Petitioner did not appeal any of the actions described above.
7. Petitioner reapplied for BC+ in July, 2012. BC+ was opened for her children, but was denied for petitioner and her husband by a notice dated July 27, 2012 because of restrictive enrollment.
8. Petitioner filed this appeal on August 13, 2012.

### DISCUSSION

BC+ is an expansion of the Wisconsin Medical Assistance program designed to provide coverage to children under 19 and their caretakers. Wis. Admin. Code, §DHS 103.03; BC+ Handbook, Appendix 1.1. Recipients must pay a monthly premium based upon income. If a recipient does not pay the monthly payment before the month after the end of the benefit month, the recipient may be ineligible for the program for six months. Admin. Code, §DHS 103.085(3); Handbook, App. 19.8. The penalty for missing the premium is called “restrictive enrollment.” The restrictive enrollment can be avoided if the person had good cause for missing the payment. Handbook, App. 19.8.2.

If the person is placed in restrictive enrollment, she can reapply after six months, but she has to pay the missed premiums. Handbook, App. 19.11.2. The arrears do not have to be paid if income drops below the threshold for premium liability. If income rises above the threshold again, the arrears will have to be paid. Id.

The only issue before me is whether the county correctly denied BC+ for the adults upon the reapplication. Petitioner argued that the county should have re-determined the premium when she reported reduced income, and she provided evidence that she did file the requested verification. The problem is the timing of petitioner’s appeal.

An appeal of a negative action concerning MA must be filed within 45 days of the action. Wis. Stat. §49.45(5)(a); Income Maintenance Manual, §3.3.2. Language concerning the right to appeal and the time limit is included as page two on all department notices. Page 5 of the March 28 letter setting the premium informed petitioner that she could appeal with a deadline of May 17, 2012. Page 4 of the April 18 letter closing BC+ for the adults informed petitioner that she could appeal with a deadline of June 18, 2012. Page 5 of the May 8 letter closing BC+ for the household informed petitioner that she could appeal with a deadline of July 17, 2012.

Because petitioner did not appeal those notices timely, the actions are done and the Division of Hearings and Appeals does not have authority to change them. The only issue now is whether the county processed the July, 2012 application correctly. I conclude that it did. When petitioner re-applied, she was in the middle of a restrictive enrollment period that had started on May 1, 2012. At this point she must get through the penalty period, at which point she can request BC+ for the adults again. As noted, she will still have to pay the \$178 April premium along with any new premiums that apply.

### CONCLUSIONS OF LAW

1. The county correctly denied BC+ for petitioner and her husband because they were in a restrictive enrollment period when they applied for the program in July, 2012.

2. Petitioner's appeal of the setting of the BC+ premium and the imposition of the restrictive enrollment period was untimely.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and the same is hereby 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 Madison,  
Wisconsin, this 1st day of October, 2012

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Brian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals

c: Oconto County Dept of Health And Human 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 1, 2012.

Oconto County Department of Health And Human Services  
Division of Health Care Access and Accountability