



FH



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

---

In the Matter of



DECISION

BCS/144041

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed September 20, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the La Crosse County Department of Human Services in regard to Medical Assistance, a hearing was held on November 02, 2012, at Neillsville, Wisconsin.

The issue for determination is whether the Department erred in requiring an August BC+ premium after it agreed to provide uninterrupted BC+ coverage as requested by petitioner.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

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

By: Tom Miller

La Crosse County Department of Human Services  
300 N. 4th Street  
PO Box 4002  
La Crosse, WI 54601

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Clark County.
2. Petitioner was a member of the BadgerCare Plus Program.

3. Petitioner paid her July premium.
4. On August 6, 2012, the agency learned that petitioner's husband had access to employer health insurance making the group ineligible for BC+. The agency notified petitioner that BC+ would close and she did not have to pay the August premium.
5. On August 15, petitioner called the agency and stated that she wanted to maintain BC+ and that the agency's information about the employer plan is incorrect.
6. Petitioner called the agency on August 17 and explained that BC+ must be continued and she needs August coverage of BC+.
7. Petitioner called the agency on August 20 and stated that she needs BC+ coverage in place because she needed to visit a provider as soon as possible.
8. Petitioner submitted documentation showing the agency that the employer plan was not such that made the group ineligible for BC+. On August 20, the agency agreed that the employer coverage was not adequate and reversed its decision and reopened the BC+ case including coverage for August without interruption. The agency called petitioner and left her a phone message. The agency informed petitioner that she would have to pay the August premium.
9. On August 21, petitioner called and asked the agency to not begin BC+ coverage again until September 1 and informed the agency that she would mail in the September premium.
10. Petitioner mailed her premium which was received on September 7, 2012. Petitioner intended this to be the September payment. The agency applied the payment to the overdue August premium.
11. Petitioner filed an appeal.

### DISCUSSION

BadgerCare (BC) Plus is an expansion of the Wisconsin MA program designed to provide coverage to children under age 19 and their parents. Wis. Adm. Code, §HFS 103.03(1)(f). To be eligible for BC, a person must be under age 19, a custodial parent, or the spouse of a custodial parent. Wis. Adm. Code, §HFS 103.03(1)(f)1. Parents in a BC+ household are eligible only if the total household income is no greater than 200% of the federal poverty level. See the BadgerCare + Eligibility Handbook, §16.1. A household that is eligible for BadgerCare + must pay a premium if its income is above 150% of the federal poverty level (FPL). Wis. Adm. Code, §DHS 103.085(b)(1).

A household must also meet financial requirements. Some recipients must pay a monthly premium based upon income. As a general rule, individuals who are assessed a premium for BadgerCare eligibility must make the assessed premium payment in a timely fashion or eligibility may be discontinued. BC+, § 19.1.

If an individual or family with a premium obligation fails to pay the premium by adverse action of the benefit month, the BC+ will close for those individuals, who owed a premium and those individuals are not eligible for six calendar months following the date on which their coverage terminated unless there was good cause established. BadgerCare + Eligibility Handbook, §19.8.

In this case, petitioner was a member of BC+. She wanted coverage, In fact, she wanted continuous coverage which is why she advocated on her family's behalf with the agency to establish that the agency's position with regard to the employer's insurance was not correct. She specifically asked the agency for August coverage on two occasions in August. She convinced the agency and the agency reversed its position informing her that BC+ would continue uninterrupted. By then it was nearing

the end of the month and the agency stated that the unpaid August premium would need to be sent in. What clearly happened is that petitioner realized that the family had not incurred any medical bills during August. She did not think it cost effective to pay the premium with the knowledge that there was no need for coverage during that particular month.

I see no error by the agency. Nor do I even see an adverse action against petitioner. She wanted to keep her coverage. The agency agreed to continue the coverage. The issue regarding the employer insurance was a legitimate concern of the agency and it was properly resolved. There is no basis for petitioner to ask for a lapse in coverage based on convenience. She kept continuous coverage and is expected to pay the appropriate premiums. The status quo remained in place. There was no error by the agency.

### **CONCLUSIONS OF LAW**

There was no error by the agency with regard to their requirement that petitioner pay the August premium for BC+.

**THEREFORE, it is** **ORDERED**

That this appeal 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 served and 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, 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 14th day of November, 2012

---

John P. Tedesco  
Administrative Law Judge  
Division of Hearings and Appeals



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

David H. Schwarz  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on November 14, 2012.

La Crosse County Department of Human Services  
Division of Health Care Access and Accountability