



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

BCS/144181

PRELIMINARY RECITALS

Pursuant to a petition filed October 1, 2012, under Wis. Stat., §49.45(5)(a), to review a decision by the Oconto County Dept. of Health And Human Services to discontinue Medical Assistance (MA), a hearing was held on October 31, 2012, by telephone.

The issue for determination is whether petitioner can be eligible for BC+ when her husband has access to insurance.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Gail Retzlaff

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. Petitioner received BC+ for a three-person household until the county action. A review was done in late September, 2012. At that point it was determined that petitioner's husband had access to health insurance through his employer.

3. By a notice dated September 28, 2012, the agency informed petitioner that BC+ for her daughter would continue with no premium but BC+ for petitioner and her husband would end October 1, 2012.
4. The premium for single-person coverage of petitioner's husband through his employer is \$74.64 per month, which is less than 9.5% of his income. Coverage for petitioner and her husband through his employer would cost \$352.72 per month. That amount is more than 9.5% of income. The employer pays 76% of the premium for the single-person coverage, and 48.5% of the premium for coverage of the couple.

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 BC+ Handbook, Appendix 7.3, describes how insurance affects BC+ eligibility:

Individuals 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 BC+ 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 caretaker relative or child under age 19 with family income that exceeds 150 percent of the FPL and the caretaker relative or child is not exempt....

The employed BC+ member and anyone else who could have been covered by the health insurance plan are ineligible for BC+ benefits. Children under 19 years of age can become eligible by meeting a deductible.

For the record, 150% of poverty for a three-person household is \$2,386.25 monthly. Handbook, App. 50.1. Department records show that petitioner has access to insurance and that his employer would pay 80% of the premiums. The letter from the YMCA, petitioner's husband's employer, states that even for single person coverage, the YMCA pays just 76% of the premium. The premium percentage is lower for family coverage.

During the hearing the parties discussed the effect of the new 9.5% of income policy. That policy provides that a household is ineligible for BC+ if employer-sponsored insurance premiums are less than 9.5% of income. See Handbook, App. 7.3.3. However, in reviewing the evidence, I noted that the letter from the YMCA concerning its insurance coverage states that the YMCA pays at most 76% of the insurance premium. Thus the insurance access is not a barrier to BC+ eligibility.

CONCLUSIONS OF LAW

Petitioner's household remains eligible for BC+ because her husband's employer pays less than 80% of the insurance premium in its insurance plan.

THEREFORE, it is

ORDERED

That the matter be remanded to the county with instructions to re- determine petitioner's BC+ eligibility with the notation that her husband's employer pays less than 80% of health insurance premiums in its insurance plan. The county shall take this action within 10 days of this decision.

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 5th day of November, 2012

Brian C. Schneider
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 November 5, 2012.

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