



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

BCS/144543

PRELIMINARY RECITALS

Pursuant to a petition filed October 11, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Portage County Department of Human Services in regard to Medical Assistance, a hearing was scheduled for November 21, 2012. Following a rescheduling request, a hearing was ultimately held on December 10, 2012, at Stevens Point, Wisconsin. With petitioner's consent, the record was held open 10 days post-hearing to allow respondent to submit certain verifying information.

The issue for determination is whether respondent erred in terminating petitioner's BadgerCare Plus program enrollment due to access to employer sponsored 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
Madison, Wisconsin 53703

By: Amanda Brooks

Portage County Department of Human Services
817 Whiting Avenue
Stevens Point, WI 54481-5292

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Portage County.

2. Petitioner participated in a renewal of her BadgerCare Plus (BCP) enrollment on or about October 5, 2012.
3. Petitioner's husband is employed at H.O. Wolding, and has access to employer sponsored insurance. Monthly premiums for the employee-only plan are \$64.00.
4. Respondent sent written notice to petitioner on October 17, 2012, indicating that petitioner and her husband BCP enrollment would terminate effective November 1, 2012, due to the availability of health insurance through petitioner's husband's employer.

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. If income is more than 150% of poverty, the person must pay a premium for BCP eligibility, if the household does not have access to insurance. Wis. Admin. Code, §DHS 103.085(1)(b); BCP Handbook, § 7.3.3. If income is between 133% and 150% of poverty the person may be eligible for BCP even if he has access to employer-sponsored health insurance, if premiums for the health insurance are more than 9.5% of household income. BCP Handbook, § 7.3.3; this policy became effective July 1, 2012. If income is above 150% of poverty and the household has access to insurance, any adults in the household are ineligible for BC+, but children can be eligible if a deductible is met. Handbook, App. 17.1.

The issue in this case is whether respondent erred in terminating petitioner's BadgerCare Plus program enrollment due to access to employer-sponsored insurance. Petitioner complains that her case was mishandled in September, when she failed to be sent a notice of renewal by the respondent. The record, however, demonstrates that the respondent immediately acknowledged and addressed the error. As a result of the renewal process, however, respondent determined that petitioner and her husband were not eligible for BCP benefits. Respondent determined that petitioner and her husband had access to an employer sponsored health insurance plan, where the cost of the employee-only plan did not exceed 9.5% of the monthly household income.

Petitioner testified that her household cannot afford the insurance cost associated with the health insurance offered by petitioner's husband's employer. While I acknowledge her concerns, and do not doubt the sincerity of her testimony, I also cannot ignore the BCP regulations addressing this issue. The law is very clear that an individual is considered to have access to employer-sponsored insurance if the cost of coverage for the employee-only plan does not exceed 9.5% of the monthly household income. BC+ Handbook, § 7.3.3. Petitioner's household income in November, 2012, was \$2,671.20. The employee only health insurance premium amount is \$64.00, or slightly over 2% of the household income. Furthermore, when an employed parent has been determined to have current access, the individual's spouse will also be considered to have current access if the employer offers a plan that provides coverage to the spouse. Id. Petitioner concedes that her husband's employer -sponsored insurance includes a plan that will cover her.

Based upon the foregoing, petitioner has failed to establish an error on the part of the respondent that would call into question the respondent's determination that the petitioner is not eligible for BCP. Petitioner testified that she anticipated that her unemployment compensation would cease in December of 2012. If that occurs, the loss of that income could affect her eligibility, and she would be encouraged to reapply.

CONCLUSIONS OF LAW

Petitioner has current access to employer-sponsored insurance, and is therefore not eligible for BCP.

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 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 3rd day of January, 2013

\sPeter McCombs
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 January 3, 2013.

Portage County Department of Human Services
Division of Health Care Access and Accountability