



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

BCS/145075

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 5, 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 (MA), a hearing was held on January 9, 2013, by telephone.

The issue for determination is whether the Department correctly discontinued the petitioner's BadgerCare Plus (BCP) effective November 1, 2012, due to excess income.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

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

By: Tom Miller, Supervisor

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

**ADMINISTRATIVE LAW JUDGE:**

Nancy J. Gagnon  
Division of Hearings and Appeals

**FINDINGS OF FACT**

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

2. BCP is a Wisconsin variant of MA for low-income families with children or pregnant women. Prior to November 2012, the petitioner had an ongoing BCP case for herself and her minor child, with a \$126 monthly premium liability. The case was due for a periodic review in October 2012.
3. The petitioner filed her review form and underwent an interview in October 2012. Her income consisted of wages (\$12.00 an hour), plus commissions, plus \$300 monthly in child support. On October 19 and October 30, 2012, notices were issued to the petitioner, advising that her BCP was ending November 1, 2012. The basis for closure was excess income.
4. The petitioner's commission income (she works in collections) is variable. The agency first used a 9-month average to calculate commission income, and then re-calculated it using a 10-month average. The 10-month average was \$800.89. When added to the other income, the result was total monthly gross income of \$3,020.89.

### **DISCUSSION**

Adults are not eligible for BCP if their household gross income exceeds 200% of the Federal Poverty Level. *BadgerCare Plus Eligibility Handbook (BCPEH)*, §16.1; Wis. Stat. § 49.471. There is no BCP state code section. For the petitioner's two-person household size, the 200% amount is currently \$2,521.66. The petitioner's child support, hourly wages and year-to-date commissions are not in dispute. Therefore, the agency's termination decision was correct.

The petitioner expressed interest in the link to the state's high risk insurance pool, which is <http://hirs.org/>.

### **CONCLUSIONS OF LAW**

1. The Department correctly discontinued the petitioner's adult BCP due to excess income, effective November 1, 2012.

**THEREFORE, it is**

**ORDERED**

That the petition 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 24th day of January, 2013

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\sNancy J. Gagnon  
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 24, 2013.

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