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[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

BCC/145323

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 14, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Walworth County Department of Human Services in regard to Medical Assistance (MA), a hearing was held on January 10, 2013, at Elkhorn, Wisconsin.

The issue for determination is whether the Department correctly discontinued the petitioner's BadgerCare Plus Core (BCP-C) plan coverage effective October 1, 2012.

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: Sandra Cross, ES Spec.  
Walworth County Department of Human Services  
W4051 County Rd NN  
Elkhorn, WI 53121-1006

**ADMINISTRATIVE LAW JUDGE:**

Nancy J. Gagnon (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Walworth County.
2. BadgerCare Plus-Core Plan (BCP-C) is a Wisconsin variant of MA for low-income adults who are not disabled, elderly, or raising minor children. Prior to October, 2012, the petitioner had an ongoing BCP-C case as a household of one person. Her case was due for a periodic review by

September 30, 2012. On September 18, 2012, the Department issued written notice to the petitioner advising that her BCP-C case would close effective October 1, 2012, for lack of a review.

- 3. The petitioner went through a case review on September 28, 2012. Because she reported employment, the Department issued a written verification request to confirm/deny her access to health insurance through an employer.
- 4. On approximately October 9, 2012, the Department received confirmation that the petitioner had been able to obtain health insurance through employer ██████████ in 2012. The employer pays 69% of the premium cost, leaving a \$188 monthly premium cost for the petitioner, who is a part-time employee. On October 31, 2012, the Department issued written notice to the petitioner advising that her BCP-C would remain closed from October 1, 2012, forward, because she had “access to insurance through a current employer.”

**DISCUSSION**

The above facts are not in dispute.

The BCP “Core Plan” is a Wisconsin variant on MA for adults without dependent children, which provides basic health care coverage to adults who do not otherwise qualify for Medicaid or the BadgerCare Plus Standard or Benchmark Plans. A successful applicant must have gross income at or below 200% of the Federal Poverty Level (FPL). *BCP Eligibility Handbook (BCPEH)*, §43.2; Wis. Stat. §49.45(23). The FPL amounts are available at *BCPEH*, §50.1, online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> .

In addition to meeting the income limit, a successful BCP-C applicant must not currently have other health insurance, or have “access to” other employer -based health insurance:

**43.6.5 Health Insurance Coverage**

Health insurance coverage is defined as medical care (provided directly, through insurance or reimbursement or otherwise) under any hospital or medical service policy or certificate, hospital or medical services plan contract, or HMO contract offered by a health insurance issuer.

Health insurance coverage includes group health insurance coverage, individual health insurance coverage and short-term, limited duration insurance.

...

**Current Coverage**

An individual is ineligible for the Core Plan if s/he is currently covered by a health insurance plan.

...

**43.6.6 Health Insurance Access**

Current or past access to employer sponsored insurance through a current employer of the applicant/member, the applicant/member’s spouse or the applicant/member’s parent can affect eligibility for the Core Plan.

Insurance is considered "employer sponsored" only if the employer contributes some amount to the cost of the insurance. If the employer pays no portion of the premium it is not considered employer sponsored.

...

**Past Access**

An individual who had access to employer sponsored insurance through his/her current employer (or his/her spouse's or parent's current employer) in the past 12 months is ineligible, regardless of the amount of the employer contribution, unless there is a good cause reason for not signing up for the insurance. The good cause reason only applies at the time of application. There will be no good cause reasons granted at renewal if the member did not sign up for the employer sponsored insurance while he/she was enrolled in the Core Plan.

*BCPEH*, §43.6.5 - .6. Because the petitioner had access to employer-based health insurance within the past 12 months, the Department discontinued her BCP-C due to the existence of other coverage.

The two-paragraph long statute that created BCP-C does not discuss the "access to other health insurance" eligibility barrier. See, Wis. Stat. §49.45(23). It does mention that BCP -C was created pursuant to a waiver from the federal government.

The waiver in question, #11-W-00242/5 (Waiver), is permitted pursuant to Section 1115 of the Social Security Act. It is valid from January 1, 2009, through December 31, 2013. See online, at the federal website, <https://www.cms.gov/MedicaidStWaivProgDemoPGI/>. The waiver document does state that a condition of BCP-C eligibility is that the applicant "must not be covered by health insurance currently." It also goes on to state that an applicant/recipient:

(h) must not have had access to employer subsidized insurance in the previous 12 months, cannot have access to employer subsidized insurance during the month of application, or cannot have a potential offer to enroll in employer subsidized insurance in any of the 3 months following the month of application.

*Waiver*, §IV-17(h). Thus, the petitioner's situation renders her ineligible for BCP-C.

The petitioner has MS. She may wish to look into the state's high risk insurance program to see if she can get a better price on health insurance through that program. See, <http://hirsp.org/>.

### **CONCLUSIONS OF LAW**

1. The Department correctly discontinued the petitioner's BCP -C due to her ability to access other health insurance coverage.

**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 29th 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**

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 January 29, 2013.

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