



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCS/145956

PRELIMINARY RECITALS

Pursuant to a petition filed December 13, 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 23, 2013, by telephone.

The issue for determination is whether the Department correctly discontinued the petitioner's BadgerCare Plus (BCP) coverage.

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, Supr.

Western Region for Economic Assistance
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 Monroe County.

2. BCP is a Wisconsin variant of MA for low-income parents with minor children or pregnant women. Prior to March 2012, the petitioner had an open BCP case with his minor child, PW. The child's mother, [REDACTED] [REDACTED] had her own open BCP case. At the petitioner's February 2012 periodic case review, the two BCP households were combined, leaving [REDACTED] as the casehead.
3. Their joint case was reviewed again on August 8, 2012, per their joint FoodShare case status. Verification of the petitioner's income was requested, and was then received on August 20, 2012. On September 4, 2012, a notice was sent to the household's correct address of [REDACTED] [REDACTED], advising that a BCP premium of \$98 would be due, beginning with October 2012. A BCP premium notice was sent to that address on September 18, 2012. No premium was paid in September or October 2012.
4. On October 19, 2012, the Department issued written notice to the household (addressed to [REDACTED]) at the same address, advising that the premium had not been paid and that their BCP would end November 1, 2012. It also advised that if the premium was not paid by the end of November, a restrictive re-enrollment period would be imposed.
5. On November 7, 2012, [REDACTED] telephoned the agency twice and stated that she had moved in with her mother, and gave a new address (the mother's). A notice was then sent to [REDACTED] on November 8, 2012, advising that she and PW were eligible for BCP without a premium (because the petitioner's income was no longer counted), and that the petitioner was ineligible for BCP effective November 1, 2012.
6. [REDACTED] did not move in with her mother. She, PW and the petitioner lived together at the [REDACTED] [REDACTED] from at least August 1, 2012, to the present. The petitioner's surmise is that [REDACTED] misled the agency about her address to avoid having the petitioner's income included in benefit calculations.
7. On December 3, 2012, [REDACTED] contacted the agency and reported that she had not moved out, and that the household of three persons continued to live at the [REDACTED] [REDACTED].
8. On December 24, 2012, the Department issued written notice to the household advising that the adults are not covered by BCP at this time, due to imposition of a 12-month restrictive re-enrollment period. At some point after November 1, the petitioner unsuccessfully attempted to make a BCP premium payment.

DISCUSSION

BadgerCare Plus is a Wisconsin variant of MA for families with minor children, and pregnant women. Wis. Stat. §49.471; *BCP Eligibility Handbook (BCPEH)*, § 1.1, available online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> .

The petitioner does not contest that his income puts the household above the 133% of federal poverty line. For the household's adults, BCP financial eligibility exists, in general as follows:

- (1) if household gross income is at or below 133% FPL, the parent is eligible without a premium,
- (2) if household gross income is above 133% FPL but not over 200% FPL, the parent is eligible with a premium, or
- (3) if household gross income is above 200% FPL, the parent is not BCP eligible.

BCPEH, §19.1 (7/1/12).

When a household with income above 133% FPL does not timely make a premium payment, the adults are barred from re-enrolling for 12 months. The initial payment was due by October 1, and if it had been made, the subsequent months' payments would have been due by the 10th of each benefit month. *BCPEH*, § 19.6. The policy on the restrictive re-enrollment is as follows:

A member for whom a premium is owed for the current month who leaves BC+ by quitting or not paying a premium may be subject to a restrictive re-enrollment period. A *restrictive re-enrollment period (RRP)* means the member cannot re-enroll in BC+ for a certain number of months from the termination date while their income remains high enough to owe a premium, unless they meet a good cause exemption. For adult BadgerCare Plus members aged 19 and older, the RRP is 12 months; for children under age 19, the RRP lasts 6 months.

...

19.11.4 Good Cause for Quitting BC+

Do not apply the RRP when an individual who owes a premium for quitting BC+ in the current month voluntarily quits BC+ for these reasons:

1. No person is non-financially eligible for BC+.
2. The individual moved out of Wisconsin.
3. Health insurance became available for the individual.
4. The individual is now eligible without a premium.
5. The individual has an increase in income that makes them BC+ ineligible .

BCPEH, §§19.11, 19.11.4. The petitioner's situation fits none of these good cause reasons. Therefore, imposition of the RRE for the adults in his case was correct.

CONCLUSIONS OF LAW

1. Imposition of a one year restrictive re- enrollment on the adults in the petitioner's BCP case was correct.

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 5th day of February, 2013

\sNancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals
[REDACTED]



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The preceding decision was sent to the following parties on February 5, 2013.

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