



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCS/147007

PRELIMINARY RECITALS

Pursuant to a petition filed January 29, 2013, under Wis. Stat., §49.45(5)(a), to review a decision by the Rock County Dept. of Social Services to discontinue Medical Assistance (MA), a hearing was held on February 26, 2013, by telephone.

The issue for determination is whether petitioner and her husband are ineligible for BadgerCare Plus (BC+) because of insurance available through an employer.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Sherry Quirk, ES Supervisor
Rock County Dept. of Social Services
P.O. Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County.
2. Petitioner received BC+ until the agency action. A review was necessary by the end of December, 2012; it was completed on January 2, 2013.
3. During the review the computer auto-loaded that petitioner's husband has access to a health insurance plan through his employer with 80% of the premium paid by the employer. Household

income is \$3,325 per month. Thus by a notice dated January 4, 2013 the agency denied BC+ for petitioner and her husband. Their two children remain eligible for BC+ with no premium.

4. The health insurance through the employer costs \$90 per week and has a \$10,000 per year deductible. It does not cover prescription medications.

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 7.3.2, 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; and
3. The coverage would begin within three calendar months following:
 - a. The month of BC+ application filing date ; or
 - b. Annual review month; or
 - c. Employment start date.

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 four-person household is \$2,943.75 monthly. Handbook, App. 50.1. The household also can be eligible for BC+ if the premium for employee-only insurance coverage is more than 9.5% of monthly income. Handbook, App. 7.3.3. The premium in this case is not above that threshold.

Petitioner argues that the health insurance is insufficient. The premium for family coverage is almost \$400 per month, there is a huge yearly deductible, and it does not cover prescriptions. However, the Department defines a HIPAA plan as follows:

A HIPAA Standard Plan is any group health care plan that provides medical care to covered individuals and/or their dependents directly or through insurance, reimbursement, or by some other means. Medical care means amounts paid for diagnosis, cure, mitigation (moderation), treatment or prevention of disease; or amounts paid for the purpose of affecting any structure or function of the body. A policy that pays for a

doctor's services in either an in-patient or outpatient setting qualifies as a HIPAA plan. The amount or type of benefits paid; co-insurance, deductibles, caps, etc., do not matter as long as the plan meets the HIPAA Standard Plan criteria. The health care plan cannot be limited to a single type of covered service or only accessible in a very defined circumstance. Plans limited to accident, disability, vision, long term care or dental are not examples of HIPAA plans.

Handbook, App. 7.3.2, definition of HIPAA. Under that definition petitioner's husband's plan is a HIPAA plan. It provides for medical care, and the amount of the deductible does not matter. The lack of prescription coverage also does not matter. I must conclude, therefore, that the discontinuance of BC+ for the adults was correct.

CONCLUSIONS OF LAW

The agency correctly discontinued BC+ for petitioner and her husband because he has access to a health insurance plan through his employer.

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 4th day of March, 2013

\sBrian 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 March 4, 2013.

Rock County Department of Social Services
Division of Health Care Access and Accountability