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

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In the Matter of

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██

DECISION

BCS/147088

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 05, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a telephonic hearing was held on March 21, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (MES) correctly discontinued petitioner's BadgerCare Plus benefits effective January 1, 2013, and restricted petitioner's re-enrollment in BadgerCare.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

██████████ ██████████  
████████████████████  
██

Respondent:

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

By: Sharon Thacker, HSPC senior  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Milwaukee County who received Badgercare Plus benefits for herself and her two children. See Exhibit 1.
2. Milwaukee Enrollment Services (MES) sent a December 4, 2012 Notice of Decision to the petitioner at her correct address of record stating that based upon her household income and her

household composition, she would need to pay a monthly premium of \$82.00 to continue her BadgerCare Plus benefits for her household.

3. MES sent December, 2012 premium coupon was mailed to the petitioner on December 4, 2012 for payment.
4. MES sent a December 19, 2012 Notice of Decision to the petitioner stating that she had not timely paid her BadgerCare premium, and that her BC benefits would be discontinued effective January 1, 2013 due to non-payment of BC premiums. See Exhibit 1. That notice also stated that she would be placed in a six month restrictive re-enrollment period as of January 1, 2013, due to her failure to timely pay her BadgerCare premium.
5. The petitioner did not pay her December, 2012 BC premium until February 2, 2013 due to “lack of funds.”

### DISCUSSION

BadgerCare (BC) Plus is an expansion of the Wisconsin MA program designed to provide coverage to children under age 19 and their parents. Wis. Adm. Code, §DHS 103.03(1)(f). To be eligible for BC, a person must be under age 19, a custodial parent, or the spouse of a custodial parent. Wis. Adm. Code, §DHS 103.03(1)(f)1. Parents in a BC+ household are eligible only if the total household income is no greater than 200% of the federal poverty level. See the BadgerCare + Eligibility Handbook, §16.1. A household that is eligible for BadgerCare + must pay a premium if its income is above 150% of the federal poverty level (FPL). Wis. Adm. Code, §DHS 103.085(b)(1).

A household must also meet financial requirements. Some recipients must pay a monthly premium based upon income. As a general rule, individuals who are assessed a premium for BadgerCare eligibility must make the assessed premium payment in a timely fashion or eligibility may be discontinued. BC+, § 19.1. If an individual or family with a premium obligation fails to pay the premium by adverse action of the benefit month, the BC+ will close for those individuals, who owed a premium and those individuals are not eligible for 12 calendar months following the date on which their coverage terminated unless there was good cause established. BadgerCare + Eligibility Handbook, §19.8. In this case the adverse action date was January 1, 2013.

If a late payment is received by the end of the month after the benefit month, lift the Restrictive Re-enrollment Period (RRP) (19.11) and reinstate eligibility. In the instant case, the petitioner failed to make her late payment during January, 2013 (month after the benefit month). Therefore, the petitioner’s Restrictive Re-enrollment could not be lifted by the county agency.

Individuals who are able to present good cause for the failure to pay a premium may have the restrictive re-enrollment period lifted. However, the person will still have to pay the premiums in arrears before eligibility will begin again. BC+, § 19.11.2. The following are the good cause reasons:

#### 19.8.2 Good Cause for Non-Payment

Good cause reasons for not paying the BC premium are:

1. Problems with the financial institution.
2. CARES Problem.
3. Local agency problem.
4. Wage withholding problem.
5. Fair hearing decision.

During the March 21, 2013 hearing, the petitioner admitted that the sole reason for not paying her December, 2012 BC premium during December, 2012 or January, 2013 was “lack of funds.” As clearly indicated above, such explanation did not establish that her circumstance met any of the allowable good cause reasons stated above in the BadgerCare + Eligibility Handbook, §19.8.2, “Good Cause for Non-payment.” As a result, petitioner was unable to establish any good cause for her failure to timely pay her required BadgerCare premium by the end of January, 2013.

The record is clear that petitioner failed to pay her \$82 in total BadgerCare premium during the premium month or the month after the benefit month as required. The petitioner was unable to establish that her failure to timely pay her BadgerCare premium was due to circumstances beyond her control or any other listed good cause reason. Accordingly, for the above reasons, Milwaukee Enrollment Services correctly discontinued petitioner’s BadgerCare effective January 1, 2013, and continued that discontinuance during the 12 month restrictive re-enrollment period per BadgerCare Plus Eligibility Handbook, §19.11, “BadgerCare Plus Restrictive Reenrollment.”

### **CONCLUSIONS OF LAW**

Milwaukee Enrollment Services correctly discontinued petitioner’s BadgerCare benefits effective January 1, 2013, and continued that discontinuance during the 12 month restrictive re-enrollment period pursuant to the BadgerCare + Eligibility Handbook, §19.11. “BadgerCare Plus Restrictive Reenrollment.”

**THEREFORE, it is**

**ORDERED**

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 1st day of May, 2013

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\sGary M. Wolkstein  
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 May 1, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability