



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCB/147343

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 15, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA)/BadgerCare Plus (BCP), a hearing was held on April 10, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the petitioner was correctly placed into a BCP restrictive re-enrollment period.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Katherine May, HSPC Sr.  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

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

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. BCP is a Wisconsin variant of MA for low-income parents with minor children or pregnant women. Prior to January 2013, the petitioner had an open BCP case with her two minor children.

3. The case was reviewed in late October, 2012. After verifying that the household income had increased to \$2,144.02 gross monthly, the Department determined that the petitioner's adult coverage was now subject to a premium payment requirement. On November 14, 2012, a notice was sent to the household's correct address advising that a BCP premium of \$64 would be due, beginning with December 2012. It also advised that failure to pay a premium would result in disenrollment from BCP for 12 months. A BCP premium notice was sent to the petitioner. No premium was paid in November or December, 2012, or January 2013.
4. On December 19, 2012, the Department issued written notice to the household advising that the premium had not been paid and that the adult BCP would end January 1, 2013. It also advised that if the premium was not paid by the end of January, a restrictive re-enrollment period would be imposed.
5. On January 10, 2013, the Department issued written notice to the household advising that the adult was not covered by BCP at this time, and that a 12-month restrictive re-enrollment period would begin February 1, 2013.
6. The petitioner appeared at the agency on February 15, 2013, and attempted to pay up her past-due BCP premiums. The agency did not accept her payments, as she was already in a restrictive re-enrollment period.

### 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 her income put the household above the 133% of federal poverty line in November and December. 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 in December, and if it had been made, the subsequent months' payments would have been due by the 10<sup>th</sup> 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.

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**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 adult in this case was correct.

Although the petitioner's November 2012 income was over the 133% FPL in place at the time, I note that the 133% FPL numbers were revised upward effective February 1, 2013. As of 2/1/2013, 133% FPL for a household of three is **\$2,164.58**. If the petitioner's income drops below \$2,164.58 in the future, she should contact the agency and request resumption of BCP coverage for herself.

**CONCLUSIONS OF LAW**

1. Imposition of a one year restrictive re-enrollment on the adult 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 11th day of April, 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 April 11, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability