



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCC/147590

PRELIMINARY RECITALS

Pursuant to a petition filed February 21, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Wood County Human Services - WI Rapids in regard to Medical Assistance, a hearing was held on March 20, 2013, at Medford, Wisconsin. The record was left open for seven days at the petitioner's request.

The issue for determination is whether the county agency correctly ended the petitioner's BadgerCare Plus Core Plan benefits because he had access to private insurance through his employer.

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: Beulah Garcia

Wood County Human Services - WI Rapids
320 West Grand Avenue
PO Box 8095
Wisconsin Rapids, WI 54495-8095

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Taylor County.

2. On February 11, 2013, the Northern IM Consortium notified the petitioner that medical assistance would end for him and his wife on March 1, 2013, because his employer contributed toward the cost of their health insurance.
3. The petitioner declined to accept the health insurance subsidized by his employer.
4. The petitioner's wife is being treated for a preexisting condition.
5. The insurance policy subsidized by the petitioner's employer contains the following language:

No coverage is provided for expenses in connection with a pre-existing condition.

Full Plan coverage will be available for such condition on the day immediately following the expiration of 12 months, or in the case of a late enrollee, 18 months after the enrollment date...

"Late enrollee" means a covered person who enrolls in the Plan other than during the original eligibility period or during a special enrollment period.

DISCUSSION

The petitioner and his wife have been receiving medical assistance through the BadgerCare Plus Core Plan, which covers persons between 18 and 64 years old who do not have any children under 19 years old. *BadgerCare Plus Eligibility Handbook*, § 43.2. Generally a person is ineligible for the Core plan if he has had access to health insurance in which his employer contributes any amount toward the premium. *BadgerCare Plus Handbook*, § 43.6.6. Those applying for the Core plan can receive benefits if they had good cause for declining insurance subsidized by their employer in the previous 12 months if they had good cause for doing so. Good cause includes being denied coverage for pre-existing conditions. *Id.* However, there is no good cause for declining private insurance if the person is already in the Core plan and is filing a renewal application. *Id.* Because the petitioner and his wife were already receiving Core plan benefits, there is no good cause for their failing to obtain the private health insurance subsidized by his employer. Because they had access to this health insurance, they are no longer eligible for the Core plan.

I note to the agency that it was ordered to continue the petitioner's benefits pending this appeal. The petitioner contacted our office indicating that it had not done so. The agency must comply with orders to continue benefits.

CONCLUSIONS OF LAW

The county agency correctly seeks to end the petitioner's BadgerCare Plus Core Plan benefits because he declined health insurance whose premium was subsidized by his employer.

THEREFORE, it is

ORDERED

The petitioner's appeal 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 12th day of April, 2013

\sMichael D. O'Brien
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 12, 2013.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability