



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/148020

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 14, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Rock County Department of Social Services in regard to Medical Assistance, a hearing was held on April 22, 2013, at [REDACTED], Wisconsin.

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

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: Pat Nixon

Rock County Department of Social Services  
1900 Center Avenue  
PO Box 1649  
[REDACTED], WI 53546

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County.
2. BCP is a Wisconsin variant of MA for low-income parents with minor children or pregnant women. Prior to June, 2012, the petitioner had an open BCP case with his minor child.

3. On June 11, 2012, a notice was sent to the household's correct address of [REDACTED], WI, advising that a BCP premium of \$106.00 would be due, beginning with July 1, 2012. No premium was ever paid by petitioner.
4. On June 25, 2012, respondent's electronic Case Comments indicate that, "major medical insurance coverage reported."
5. On July 18, 2012, the Department issued written notice to the household at the same address, advising that the premium had not been paid and that their BCP would end August 1, 2012. It also advised that if the premium was not paid by the end of August, a restrictive re-enrollment period would be imposed.
6. On or about December 1, 2012, petitioner notified the respondent that he had lost his job and applied for BCP benefits. A notice was then sent to petitioner on December 12, 2012, advising that he and his daughter were eligible for BCP without a premium (because the petitioner's income no longer exceeded the premium limit).
7. In March, 2013, petitioner had an increase in unearned income (child support), which caused income to exceed BCP premium income limits. On March 27, 2013, petitioner received notice indicating that his BCP benefits would end effective May 1, 2013, as he was again subject to the terms of the restrictive reenrollment since the July, 2012, premium had not been paid.
8. Petitioner timely filed his request for fair hearing contesting the imposition of the 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 his income put 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 July 1, 2012, 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. (*emphasis added*). The petitioner has clearly established that health insurance became available in mid-2012, and respondent concedes that it was aware of this in June, 2012. Petitioner testified that he did report insurance coverage through an employer in mid-2012, which made the BCP unnecessary for a time; at hearing it was confirmed that he may have provided this information to Carol Cole, a worker affiliated with unemployment compensation familiar to the respondent. As such, and based upon the totality of the evidence presented, I find that imposition of the restrictive re-enrollment period in this case was incorrect.

**CONCLUSIONS OF LAW**

Imposition of restrictive re-enrollment due to petitioner's failure to pay his assessed BCP premium was incorrect, as petitioner had good cause for voluntarily quitting BCP in June of 2012.

**THEREFORE, it is****ORDERED**

That the matter is remanded to the respondent to remove the petitioner from restrictive re-enrollment, and to take whatever steps necessary to re-determine petitioner's BCP premium as of May 1, 2013, if any, and to re-enroll petitioner in BCP effective as of May 1, 2013. All actions required herein shall be completed within 10 days following the date of this Decision.

**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 3rd day of June, 2013

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\sPeter McCombs  
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 June 3, 2013.

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