



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCC/148033

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 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 17, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Department correctly discontinued the petitioner's BCP-Core Plan case effective December 1, 2012, due to failure to pay a premium.

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: Nhialee Yang  
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. The petitioner has been on BadgerCare Plus Core (BCP-C) Plan medical coverage since 2009. BCP-C is a Wisconsin variant of MA for childless, low-income, non-elderly, non-disabled adults.

3. The petitioner's annual case review was due in October, 2012. The petitioner performed her review on October 24, 2012; however, income verification was required. A written verification request was issued on October 25, 2012, with a due date of November 5, 2012. Exhibit 1, part C. On November 6, 2012, the Department issued written notice to the petitioner advising that her BCP-C would be discontinued effective December 1, 2012, due to failure to submit requested income verification. Exhibit 1, part D.
4. The petitioner submitted the requested income verification on November 26, 2012. The agency was slow to act on this information. It eventually determined in January 2013 that the petitioner continued to be eligible for BCP-C, subject to payment of a premium.
5. On January 8, 2013, the Department issued written notice to the petitioner advising that her BCP-C benefit would reopen if she paid a premium by February 6. The amount of the premium was not identified. This notice was mailed to the petitioner's correct address of [REDACTED], and was not returned to the Department as undelivered. Exhibit 1, Part F. The petitioner received this notice.
6. A BCP-C premium payment coupon, identifying the premium amount of \$59, was mailed to the petitioner at the [REDACTED] address on January 24, 2013. The payment coupon was not returned to the Department as undelivered. The petitioner received this mailing.
7. As of March 1, 2013, the petitioner had not paid the BCP-C premium. On March 1, 2013, the Department issued written notice to the petitioner advising that her BCP-C case would remain closed due to her failure to pay the January BCP-C premium. Exhibit 1, Part F.

### DISCUSSION

The BCP "Core Plan" is a Wisconsin variant on MA for adults without dependent children, which provides basic health care coverage to adults who do not otherwise qualify for Medicaid or the BadgerCare Plus Standard or Benchmark Plans. A successful applicant must have gross income below 200% of the Federal Poverty Level (FPL). *BCP Eligibility Handbook (BCPEH)*, §43.2, online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> ; Wis. Stat. §49.45(23). The 200% of FPL for one person is available at *BCPEH*, §50.1. There is no dispute that the petitioner's income was under 200% FPL here.

An eligible BCP-C member with income above 133% of the FPL is required to pay monthly premiums as a condition of enrollment and continued eligibility. *BCPEH*, § 43.7.3.1. The petitioner was notified of this requirement on January 8, and was issued her premium payment coupon on January 24, 2013. It is undisputed that she made no premium payment. When a premium payment is not made, the Department closes the BCP-C, and disqualifies the former member for 12 months, unless good cause is established. *Id.*, § 43.7.3.7.1.

The petitioner has not established good cause for her nonpayment here. *Id.* § 43.7.3.7.3. The petitioner states that she received neither the January 8 notice advising that a premium would be due by February 6, nor the premium payment coupon. The documents were mailed to the petitioner's correct address and were not returned to the agency as undelivered. The Department enjoys the presumption that a mailed, correctly addressed document that is not returned by the postal service was received by the addressee. The petitioner has not rebutted that presumption. Thus, the agency's discontinuance of the BCP-C case was proper.

**CONCLUSIONS OF LAW**

1. Discontinuance of the petitioner's BCP-C was correct due to failure to pay her BCP-C premium.

**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 13th day of May, 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 May 13, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability