



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/148324

PRELIMINARY RECITALS

Pursuant to a petition filed March 25, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Walworth County Department of Human Services in regard to Medical Assistance, a hearing was held on April 15, 2013, at Elkhorn, Wisconsin.

The issue for determination is whether the Department erred in termination BC+ for petitioner and her husband due to available health insurance through the husband's 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: Mia Anderson

Walworth County Department of Human Services
W4051 County Rd NN
Elkhorn, WI 53121-1006

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Walworth County.
2. Petitioner's household gross income is \$4,075.
3. BC+ renewal was due in January 2013. As part of the renewal, petitioner's husband's employer provided information regarding the employer sponsored health insurance plan. The employer's

information indicated health insurance available for the employee at a monthly premium of \$112.67. The plan also has employee+spouse coverage available at a higher premium of \$197.17. Family coverage is also available for \$281.67.

4. On March 18, 2013 the Department sent petitioner notice informing her that BC+ benefits would be ending for Petitioner and her husband because the Department had learned that petitioner's husband had other health insurance available through his employer.
5. Petitioner filed a timely appeal.

DISCUSSION

Wis. Stat. §49.471(8) states that a family is ineligible if it has, or has *access* to, employer-subsidized health care coverage. The Wisconsin Administrative Code §DHS 103.03(1)(f)2, and the *BCPEH*, 7.3, state that a family with income exceeding 133% of the FPL is ineligible if it is covered by and has "access" to any health insurance plan that meets the standard of the Health Insurance Portability and Accountability Act (HIPAA). A HIPAA plan is any group plan that provides medical care to individuals and/or their dependents. Wis. Stat. §49.471(1)(g).

7.3.3. The 9.5 % Current Access Test

For parents and caretakers who are not exempt (See 7.1), an individual with current access to employer sponsored health insurance is not eligible for BadgerCare Plus. An individual has current access to employer sponsored insurance if:

- *the individual could enroll in and be covered under the plan in the month for which eligibility is being determined, **and***
- *the cost of coverage for the employee-only plan does not exceed 9.5% of the monthly household income.*

When an employed parent or caretaker has been determined to have current access, the individual's spouse will also be considered to have current access if the employer offers a plan that provides coverage to the spouse, such as employee + spouse or employee + family coverage.

...

*There are no **good cause** reasons for not enrolling in a health insurance plan when an individual has current access.*

BCPEH, §7.3.3.

In this case, petitioner's husband has a HIPAA plan available to him at less than 9.5% of the family income which would be a threshold of \$387.13. In fact, petitioner can pay the premium to cover the entire family for less than this amount.

Petitioner's argument is that the plan that is available has a very high deductible. But, under the BC+ rules, the only question is whether the plan is a HIPAA plan. This plan, offered and administered by WPS Health Insurance appears to be a HIPAA qualified plan. Petitioner did not offer argument that it is not. The plan does not have to meet any specific criteria. A plan such as this is intended to help a family avoid catastrophe due to major medical expenses such as surgery or hospitalization. The children are still covered under BadgerCare. The children have not been disenrolled.

CONCLUSIONS OF LAW

Petitioner's husband has employer sponsored health insurance access, as does petitioner.

THEREFORE, it is

ORDERED

That this 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 June, 2013

\sJohn P. Tedesco
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 12, 2013.

Walworth County Department of Human Services
Division of Health Care Access and Accountability