



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/148334

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 26, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Dodge County Department of Human Services in regard to BadgerCare Plus (BCP), a hearing was held on July 9, 2013, by telephone. Hearings scheduled for April 29 and June 6, 2013, were rescheduled at the petitioner's request ("not ready"). The hearing record was held open for 14 days at the petitioner's request for submission of documentation on the status of her appeal from a denial of Social Security Disability/SSI benefits.

The issue for determination is whether the petitioner's BCP benefit was correctly discontinued effective March 31, 2013.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Cathy Schoenberger, ES Spec.  
Dodge County Department of Human Services  
143 E. Center Street  
Juneau, WI 53039-1371

**ADMINISTRATIVE LAW JUDGE:**

Nancy J. Gagnon  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]), age 47, is a resident of Dodge County.

2. The petitioner received BCP benefits as a household of two persons (self and child) prior to April 2013. Her child reached the age of 19 in March 2013.
3. On February 4, 2013, the Department issued written notice to the petitioner advising that BCP benefits for herself and her child would be discontinued effective March 31, 2013. The basis for discontinuance of the child's benefit was that she had reached age 19. The basis for the petitioner's discontinuance was that she was no longer the caretaker relative of a child under age 19.
4. The petitioner has previously applied for Social Security Disability/SSI as a disabled person. That application was denied for lack of disability, and the petitioner appealed. The petitioner's appeal was denied by a Social Security Administrative Law Judge prior to this hearing, in 2013. Also, the petitioner is not blind.

### DISCUSSION

To qualify for BadgerCare Plus, a non-pregnant adult must have both low income and be caring for his/her child under the age of 19. This is required by statute:

**(4) GENERAL ELIGIBILITY CRITERIA; APPLICABLE BENEFITS.**

**(a)** Except as otherwise provided in this section, all of the following individuals are eligible for the benefits described in s. 49.46 (2) (a) and (b), subject to sub. (6) (k):

**1.** A pregnant woman whose family income does not exceed 200 percent of the poverty line.

**2.** A child who is under one year of age, whose mother was, on the day the child was born, eligible for and receiving medical assistance under subd. 1. or 5. or s. 49.46 or 49.47, and who lives with his or her mother in this state.

**3.** A child whose family income does not exceed 200 percent of the poverty line. For a child under this subdivision who is an unborn child, benefits are limited to prenatal care.

**3m.** A child who obtains eligibility under sub. (7) (b) 2.

**4.** An individual who satisfies all of the following criteria:

**a.** *The individual is a parent or caretaker relative of a child who is living in the home with the parent or caretaker relative* or who is temporarily absent from the home for not more than 6 months...

**b.** Except as provided in subd. 4. c., the individual's family income does not exceed 200 percent of the poverty line and does not include self-employment income.

**c.** If the individual's family income includes self-employment income, the individual's family income does not exceed 200 percent of the poverty line as calculated under sub. (7) (a) 2.

**5.** An individual who, regardless of family income, was born on or after January 1, 1990, and who, on his or her 18th birthday, was in a foster care placement ... The coverage for an individual under this subdivision ends on the last day of the month in which the individual becomes 21 years of age, unless he or she otherwise loses eligibility sooner.

**6.** Migrant workers and their dependents who are determined eligible under sub. (6) (f).

**7.** Individuals who qualify for a medical assistance eligibility extension under s. 49.46 (1) (c), (cg), or (co) when their income increases above the poverty line.

*[emphasis added]*

Wis. Stat. § 49.471(4)(a). See also in accord, *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1 - .2, at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm>. The statute in turn defines a "child" as "an individual who is under the age of 19 years." Wis. Stat. § 49.471(1)(c).

The petitioner no longer has a child under age 19 residing with her, so she cannot be eligible for BCP. Thus, discontinuance of her BCP was correct.

BCP is a subset of the Medicaid program. Medicaid is available for other types of low income persons. The eligible persons must be elderly, blind, or disabled per the Social Security definition of disability. Wis. Stat. §§ 49.46 - .47. The petitioner has not established at this time that she fits into any of those nonfinancial eligibility categories. The hearing record was held open to permit the petitioner to submit proof of any change in the Social Security Administration's ruling that the petitioner is not disabled, and no such proof was submitted.

As an aside, the petitioner may wish to apply for BadgerCare Plus again in January 2014. It appears that it will not be necessary to prove that she is disabled after January 1, 2014, due to a law change, if her income is at or below 100% of the federal poverty level.

### **CONCLUSIONS OF LAW**

The county agency correctly discontinued the petitioner's BCP coverage effective March 31, 2013.

**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 25th day of July, 2013

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\sNancy J. Gagnon  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Wayne J. Wiedenhoef, Acting Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 25, 2013.

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