



FH  
[REDACTED]

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

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/148392

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed March 28, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA), a hearing was held on April 25, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly discontinued petitioner's BadgerCare Plus (BCP) MA effective April 1, 2012.

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: Nikitia Howse  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Kelly Cochrane  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner's caretaker relative/child turned 19 years old on February 22, 2013.

3. On March 18, 2013 the agency issued a notice to petitioner stating that her BCP would be ending effective April 1, 2013 because she was no longer taking care of a child under the age of 19.

### DISCUSSION

BadgerCare Plus (BCP) is a medical insurance program that provides health coverage for Wisconsin families pursuant to Wis. Stat. §49.665. BCP replaces the former AFDC-Medicaid, Healthy Start and BadgerCare.

Threshold eligibility requirements are contained in the statutes and state administrative rules. The *BCP Handbook*, (available at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm>) provides the non-financial eligibility for BCP. In order to be nonfinancially eligible, a person must fit into one of the following categories:

1. Children under 19.
2. Pregnant Women.
3. Parents/Caretakers of children under 19 years of age, including some parents and caretakers whose children have been removed from the home and are in the care of the child welfare system. (Chapter 10).
4. Young adults exiting out of home care (such as foster care).

*BCP Handbook*, §2.1. In the present case, the petitioner had been eligible for BCP because she was the caretaker of a child under age 19. When the child turned 19 in February, she no longer met the eligibility criterion cited above. Because she does not currently meet any of the above eligibility criteria to receive BCP, I must uphold the county's determination.

I add, assuming that petitioner finds this to be unfair, that it is the long-standing position of the Division of Hearings & Appeals that the Division's hearing examiners lack the authority to render a decision on equitable arguments. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions.

I understand that petitioner has applied for presumptive disability and is awaiting a decision on that application. Petitioner is also always free to apply for other MA programs for which she may be eligible.

### CONCLUSIONS OF LAW

The agency correctly discontinued petitioner's BCP effective April 1, 2013 as the child in her care had turned 19 and she met no other BCP criteria.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein is hereby 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 Milwaukee,  
Wisconsin, this 20th day of May, 2013

---

\sKelly Cochrane  
Administrative Law Judge  
Division of Hearings and Appeals



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

David H. Schwarz  
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 May 20, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability