



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

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCB/148703

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed April 10, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the La Crosse County Department of Human Services in regard to Medical Assistance, a hearing was held on May 13, 2013, at Whitehall, Wisconsin.

The issue for determination is whether respondent correctly determined that petitioner is not eligible for Badger Care Plus.

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: Bob Uebele

La Crosse County Department of Human Services  
300 N. 4th Street  
PO Box 4002  
La Crosse, WI 54601

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Trempealeau County.
2. Petitioner's BC+ case was in extension status that expired at the end of March 2013.

3. Petitioner's household consists of four people; herself, her husband and their two minor daughters.
4. Petitioner's BC+ case was reviewed at the end of the extension and the agency determined the following income was attributable to Petitioner's household:

## Income

Petitioner	Hours: 24 hrs/week	Rate: \$29.72	=Monthly Income \$2,853.12
Petitioner's husband	Hours: 40 hrs/week	Rate: \$14.00	=Monthly Income \$2,240.00

TOTALS: \$5,093.12

5. Based on monthly household income of \$5,093.12 (259.52% Federal Poverty Level (FPL)), the respondent determined that Petitioner and her husband were ineligible for BadgerCare Plus, and that their children were eligible, with a premium of \$68.00 each.
6. The following Federal Poverty Levels (FPL) applicable here for a household of 4 are: 100% FPL: \$1,962.50; 120% FPL: \$2,355.00; 133% FPL: \$2,610.13; 135% FPL: \$2,649.38; 150% FPL: \$2,943.75; 185% FPL: \$3,630.63; 200% FPL: \$3,925.00; 250% FPL: \$4,906.25.

### DISCUSSION

When a BadgerCare+ household's income exceeds 100% of the federal poverty level for its group size due to an increase in earned income that household is granted a BadgerCare+ Extension of 12 months. Under prior policy, while under the Extension, the household does not have to pay premiums or be concerned with employer health insurance coverage access rules. *BadgerCare+ Eligibility Handbook (BEH)*, §18.1.1. At the end of the Extension regular BadgerCare+ policies were applied. This has, however, changed.

Effective July 1, 2012 the following individuals must pay a premium for BadgerCare+ benefits:

- ...
1. Children in families with income over 200% of the Federal Poverty Level (FPL),
  2. Parents, stepparents and caretaker relatives with income over 133% through 200% of the FPL,
  3. Parents, stepparents and caretaker relatives with income over 133% in a BC+ Extension, **and**
  4. Self-employed parents, stepparents and caretaker relatives with income above 200% of the FPL before subtracting the depreciation but below 200% of the FPL after subtracting the depreciation.
- ...

*BEH*, §19.1. Here, petitioner argues that she was never made aware of the fact that she was in the Extension program. She did not know that there was a time limit. Respondent countered that the increase in income automatically placed petitioner into the Extension. Respondent testified that it was not aware of any notice requirements pertaining to the Extension, aside from those concerning negative actions (10 day notice required). The Extension program termination was identified in respondent's notice to petitioner dated March 19, 2013. See, Exhibit 2.

As of April 1, 2013 Petitioner is no longer BadgerCare+ eligible, however, as the income limit for adult eligibility is 200% of the FPL. *BEH*, §16.1. Petitioner's household income exceeds eligibility thresholds. Her children do remain BadgerCare+ eligible but with a premium.

### CONCLUSIONS OF LAW

1. That petitioner's enrollment in the BCP Extension program terminated as of April 1, 2013.

2. That the respondent correctly determined that, based upon household income, Petitioner's children's must pay a premium for BCP benefits.

**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 2nd day of July, 2013

---

\sPeter McCombs  
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 2, 2013.

La Crosse County Department of Human Services  
Division of Health Care Access and Accountability