



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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/150105

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**PRELIMINARY RECITALS**

Pursuant to a petition filed June 17, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Wood County Human Services - WI Rapids in regard to BadgerCare Plus (BCP), a hearing was held on July 23, 2013, by telephone.

The issue for determination is whether the Department correctly discontinued the petitioner's BadgerCare Plus (BCP) adult coverage.

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: Beulah Garcia, Resolution Coordinator  
Northern IM Consortium, for  
Wood County Human Services - WI Rapids  
320 West Grand Avenue  
PO Box 8095  
Wisconsin Rapids, WI 54495-8095

**ADMINISTRATIVE LAW JUDGE:**

Nancy J. Gagnon  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Vilas County.

2. BCP is a Wisconsin variant of MA for low-income parents with minor children or pregnant women. Prior to September 2012, the petitioner had an open BCP case with her minor children.
3. The case was reviewed after a change report was made on June 27, 2012. The review revealed that the petitioner's household had income that exceeded 133% of the federal poverty level (FPL). On June 28, 2012, a notice was sent to the household's correct mailing address of [REDACTED], advising that a BCP premium of \$105 would be due, beginning with August 1, 2012. A BCP premium notice was sent to that address on June 28, 2012. No premium was paid in July, August, or September, 2012.
4. On August 17, 2012, the Department issued written notice to the household at the same address, advising that the premium had not been paid and that the adult BCP would end September 1, 2012. It also advised that if the premium was not paid by the end of September, a restrictive re-enrollment period would be imposed. The petitioner asserts that she received the August 17 notice after some delay, because she did not check her post office box for approximately 30 days. The petitioner's child under the age of 19 remained eligible for BCP.
5. The petitioner reported a change to her income in June 2013. The Department reviewed her eligibility, and continued to deny adult BCP due to the restrictive re-enrollment period (which will expire September 1, 2013). On June 19, 2013, the Department issued written notice to the household advising that the adults still are not covered by BCP at this time, due to imposition of a 12-month restrictive re-enrollment period.

### DISCUSSION

BadgerCare Plus is a Wisconsin variant of MA for families with minor children, and pregnant women. Wis. Stat. §49.471; *BCP Eligibility Handbook (BCPEH)*, § 1.1, available online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm>.

The petitioner does not contest that her income puts the household above the 133% of federal poverty line. For the household's adults, BCP financial eligibility exists, in general as follows:

- (1) if household gross income is at or below 133% FPL, the parent is eligible without a premium,
- (2) if household gross income is above 133% FPL but not over 200% FPL, the parent is eligible with a premium, or
- (3) if household gross income is above 200% FPL, the parent is not BCP eligible.

*BCPEH*, §19.1 (7/1/12).

When a household with income above 133% FPL does not timely make a premium payment, the adults are barred from re-enrolling for 12 months. The initial payment was due by August 1, and if it had been made, the subsequent months' payments would have been due by the 10<sup>th</sup> of each benefit month. *BCPEH*, § 19.6. The policy on the restrictive re-enrollment is as follows:

A member for whom a premium is owed for the current month who leaves BC+ by quitting or not paying a premium may be subject to a restrictive re-enrollment period. A *restrictive re-enrollment period (RRP)* means the member cannot re-enroll in BC+ for a certain number of months from the termination date while their income remains high enough to owe a premium, unless they meet a good cause exemption. For adult BadgerCare Plus members aged 19 and older, the RRP is 12 months; for children under age 19, the RRP lasts 6 months.

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**19.11.4 Good Cause for Quitting BC+**

Do not apply the RRP when an individual who owes a premium for quitting BC+ in the current month voluntarily quits BC+ for these reasons:

1. No person is non-financially eligible for BC+.
2. The individual moved out of Wisconsin.
3. Health insurance became available for the individual.
4. The individual is now eligible without a premium.
5. The individual has an increase in income that makes them BC+ ineligible.

*BCPEH*, §§19.11, 19.11.4. The petitioner's situation fits none of these good cause reasons. Therefore, imposition of the RRE for the adults in her case was correct.

The petitioner may be able to re-enroll in BCP on September 1, 2013. Because her current income is at 180% FPL, she will probably lose BCP effective January 1, 2014, due to a change in state law. If that occurs, *and* if she cannot obtain health insurance through her employer, she may wish to purchase insurance (with the premiums subsidized) on the "Obamacare" exchange, at [www.healthcare.gov](http://www.healthcare.gov).

**CONCLUSIONS OF LAW**

1. Imposition of a one year restrictive re-enrollment on the adults in the petitioner's BCP case was correct.

**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**

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

Wood County Human Services - WI Rapids  
Division of Health Care Access and Accountability