



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/150751

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 16, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Wood County Human Services - WI Rapids in regard to Medical Assistance, a hearing was held on August 27, 2013, at Ashland, Wisconsin.

The issue for determination is whether the BadgerCare Plus agency correctly ended the petitioner's benefits and restricted her ability to reenroll because she failed to pay a premium on time.

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

Wood County Human Services - WI Rapids  
320 West Grand Avenue  
PO Box 8095  
Wisconsin Rapids, WI 54495-8095

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Ashland County.
2. The Northern Consortium notified the petitioner on February 21, 2013, that she was enrolled in BadgerCare Plus as of March 1, 2013, with a premium of \$117 per month.

- The Northern Consortium notified the petitioner on March 19, 2013, that as of April 01, 2013, her BadgerCare Plus would end and gave the following explanation:

Your BadgerCare Plus premium has not been paid. If you want to stay enrolled in BadgerCare Plus, you should pay this premium right away. If the premium is not paid by the end of next month, you may not be able to enroll in BadgerCare Plus for the next 12 months.

- The Northern Consortium notified the petitioner on April 14, 2013, that as of June 1, 2013, she could not enroll in BadgerCare Plus for 12 months because she did not pay a premium on time.

- Case notes contemporaneous with this matter state the following:

06/24/2013	XAS237	General	***CCA--Escalated call*** Transferred ██████ to supervisor about RRP. States she was never told she had to pay March premium, only April and May. PP was upset because she had taken title loan on vehicle to make payment. Case comments on 5/23 state ██████ had called for ext but bcpa closed 4/30 due to March premium not being paid. Also earlier case comments about owing March premium.
06/24/2013	XPR013	General	Supervisor called client back and she is very upset that she wastold when she called back in May that she owed for March, explained that she did receive a letter in Feb stating she owed a Marchpremium; she states she was told in May that she only owed Apriland May and now she cannot get BC - she would like to file a FH, will send out the form today.
06/03/2013	XAS072	General	█████ dropped a money order off at the local agency on 5/31/13. The money order was for March and April premiums for ██████ memo 12-25, ██████ needed to pay her March premium before the end of April in order for the RRP to be lifted. She did not pay it until the end of May. I sent ██████ a letter today along with her money order, explaining this policy. ██████ will remain in RRP until 3/31/14.
05/23/2013	XWO222	General	█████ phoned wanting an extension for BCP prem. BCPA closed 4/30 as March prem not paid; in RRP beginning 4/1.
05/08/2013	XRU014	Change	**CCA**HH COMP CHGC ██████ called to report the child, ██████ does not live with her. I removed him from the case today. She stated she receives \$2000 monthly from child support whether she has one or both children in the home. BCPC conts. BCPA fails since the April BCP premium has not been paid. Per policy, she will need to pay both the April and May premium before her BCP can reopen.

[Underlining, circling, question mark, and asterisk added by agency]

- The petitioner did not pay her BadgerCare Plus premium before May 1, 2013.

**DISCUSSION**

The petitioner had been receiving medical assistance under BadgerCare Plus, which covers children under 19 and their parents. Wis. Stat. § 49.665. Those receiving benefits have their eligibility reviewed every year. On February 21, 2013, after reviewing the petitioner’s eligibility, the BadgerCare Plus agency notified her that her benefits would continue as of March 1, 2013, with a premium of \$117 per month. It ended her benefits as of April 1, 2013, because she failed to pay her premium for that month of coverage. She contends that her benefits should be reinstated because the agency gave her misleading advice.

BadgerCare Plus rules require recipients to pay a premium by “the 10th of the month prior to the month for which the premium is required.” Wis. Admin. Code § DHS 103.085(1)(d)2. If a person fails to pay the premium by the end of the month for which it is required, benefits end on the last day of that month. Wis. Admin. Code § DHS 103.085(1)(d)3. Benefits will be reinstated if the person pays any premium owed by the end of the next month. However, this reinstatement is not retroactive to the previous month. *BadgerCare Plus Handbook*, § 19.9. Those whose benefits end because they did not pay a premium cannot reenroll for 12 months (the period is six months for their children) unless they did not pay because of circumstances beyond their control and “all past due premiums have been paid in full.” Wis. Admin.

Code, § DHS 103.085(3)(b)1; *BadgerCare Plus Handbook*, 19.11. Circumstances beyond the persons control include:

- a. A problem with an electronic funds transfer from a bank account to the BadgerCare program.
- b. A problem with an employer's wage withholding.
- c. An administrative error in processing the premium.
- d. Any other circumstance affecting payment of the premium which the department determines is beyond the group's control, but not including insufficient funds.

Wis. Admin. Code, § DHS 103.085(3)(b)1.

The petitioner contends that the agency confused her by telling her that she only had to pay her April and May 2013 premiums to remain eligible. The agency's case notes from May 8, 2013, support her contention that she was told she could regain her benefits by paying premiums for those months. Those notes indicate that she called the agency on May 8, 2013 and that it responded as follows:

BCPA fails since the April BCP premium has not been paid. Per policy, she will need to pay both April and May premium before BCP can reopen.

She then paid the premiums for two months on May 31, 2013. The question is whether the agency's May 8, 2013, statement constituted circumstances beyond the petitioner's control that led to her failure to pay her March 2013 premium by the end of April 2013, when it was too late to do so.

It did not. She was required to pay a premium for March 2013 by the end of that month. As noted earlier, the agency informed her of her obligation to pay a premium on February 21, 2013. When she did not pay the premium when it was due, it correctly notified her on March 19, 2013, that her benefits would end on April 1, 2013. That notice went onto correctly explain, "If the premium is not paid by the end of next month, you may not be able to enroll in BadgerCare Plus for the next 12 months." Because her premium was due for March benefits, she had to pay that premium by the end of April to avoid losing both her benefits and her ability to reenroll in BadgerCare Plus. She did not contact the agency until May to inquire about her benefits. Although the agency's May statement about her premiums was incorrect, it could not have had any effect on her failure to pay those premiums by the end of April because it came after then. By May, her benefits had already ended and it was too late to have them reinstated, regardless of what action she or the agency took. Those benefits ended as of April 30, 2013, solely because of her failure to pay her March 2013 premium, and nothing the agency did led to her failing to pay that premium. Because the agency's May statement did not lead to her failure to pay her March premium, that failure was not due to circumstances beyond her control. Therefore, I must uphold the agency's decision to end her benefits and restrict her ability to reenroll for 12 months.

### **CONCLUSIONS OF LAW**

The county agency correctly ended the petitioner's BadgerCare Plus benefits and restricted her ability to reenroll because she did not pay her premium by the end of the month after the month covered by the premium, and she presented no extenuating circumstances for failing to do so.

**THEREFORE, it is**

**ORDERED**

The petitioner's 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 24th day of September, 2013

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\sMichael D. O'Brien  
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 September 24, 2013.

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