



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/151333

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 15, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services (MES) in regard to Medical Assistance, a telephonic hearing was held on September 04, 2013, at Milwaukee, Wisconsin. At the request of the parties, the record was held open for one week for child support evidence to be sent to the Division of Hearings and Appeals (DHA). MES timely sent petitioner's child support information to DHA which is received into the hearing record.

The issue for determination is whether Milwaukee Enrollment Services correctly discontinued the petitioner's BadgerCare benefits effective September 1, 2013, because she had access to private health insurance and that individual health insurance policy was offered by her employer at less than 9.5% of her total household income.

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: Jose Silverstre, Jr., IM advanced worker  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County who resides with her three minor children.
2. Milwaukee Enrollment Services (MES) sent a July 26, 2013 verification request to the petitioner requesting verification of her employment at [REDACTED] regarding her income and her access to employer health insurance.
3. During August, 2013, petitioner submitted her employment/income verification to the county agency which confirmed her earned income and her access to employer health care from her employer, [REDACTED].
4. The petitioner received monthly child support of \$660.51 for two of her children.
5. The petitioner's monthly earned income at [REDACTED] [REDACTED] [REDACTED] is \$2,314.82, and she works at least 30 hours per week at that employment.
6. The petitioner's total household income is \$2,975.33 (\$2,314.82 + \$660.51) which exceeds 133% of the Federal Poverty Level (FPL).
7. Any insurance premium under \$282.65 is less than 9.5% of the petitioner's monthly household income.
8. The petitioner's employer offered an open enrollment period to petitioner in which it offered health insurance subsidized by her employer. Her employer would pay 80% of the premium of at least one of the offered health insurance plans. Her monthly share of the premium would have been under \$282.65 with a high deductible, if she had enrolled in one of her employer's health insurance plans.
9. The petitioner did not enroll in her employer health insurance program.
10. Milwaukee Enrollment Services (MES) sent an August 12, 2013 notice to the petitioner stating that her BadgerCare Plus benefits would discontinue effective September 1, 2013, due to petitioner had access to her employer's health insurance, and the monthly insurance premium was less than 9.5% of her monthly household income.

### DISCUSSION

BadgerCare Plus allows children under 19 and their parents to receive medical assistance if their income falls within the limits found in the *BadgerCare Plus Eligibility Handbook*, § 16.1.; Wis. Stat. § 49.471. Beginning on July 1, 2012, those with access to health insurance in which their employer pays at least 80% of the premium are ineligible for BadgerCare Plus if their household income exceeds 133% of the federal poverty. *BadgerCare Plus Handbook*, § 7.1. A second policy applies to new applicants, those with new employment, those who are completing their next review or renewal, or employed parents or caretakers added to the medical assistance group. This policy holds that those who **meet the following conditions are considered to have current access and thus are ineligible for BadgerCare Plus:**

- the individual could enroll in and be covered under the plan in the month for which eligibility is being determined, **and**
- the cost of coverage for the employee-only plan does not exceed 9.5% of the monthly household income.

BadgerCare Plus Handbook, §§ 7.1 and 7.3.3.

During the hearing, petitioner argued that the high deductibles (and the choice of doctors) for the employer health insurance plan made it so that she chose not to use her employer's open enrollment period to sign up of its health insurance (when at least one of those plans the employer paid 80% of the premium). However, "[t]here are **no good cause reasons for not enrolling** in a health insurance plan when an individual has current access." *Id.* The petitioner was unable to provide any reliable evidence to refute that her household income exceeds 133% of the federal poverty level, and that her monthly premium would have been less than 9.5% of her household income. Accordingly, based upon the above, I must conclude that Milwaukee Enrollment Services correctly discontinued the petitioner's BadgerCare Plus effective September 1, 2013, because she had access to private health insurance, and that individual health insurance policy was offered by her employer at less than 9.5% of her total household income.

### **CONCLUSIONS OF LAW**

The county agency correctly discontinued the petitioner's BadgerCare Plus effective September 1, 2013, because she had access to private health insurance and that individual health insurance policy was offered by her employer at less than 9.5% of her total household income.

**THEREFORE, it is**

**ORDERED**

The petition for review herein be and the same 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 Madison,  
Wisconsin, this 14th day of November, 2013

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\sGary M. Wolkstein  
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 November 14, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability