



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/151400

PRELIMINARY RECITALS

Pursuant to a petition filed August 19, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA)/BadgerCare Plus (BCP), a hearing was held on September 11, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the petitioner's BCP benefit was correctly discontinued effective September 1, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Belinda Bridges, IM Advanced
Milwaukee Enrollment Services
1220 W. Vliet St.
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Milwaukee County.
2. The petitioner received BCP benefits for a household that included himself and his son P.K., prior to September 2013. His son reached the age of 19 prior to September 2013.

3. On July 22, 2013, the Department issued written notice to the petitioner advising that BCP benefits for himself and his son would be discontinued effective September 1, 2013. The basis for discontinuance of the son's benefit was that he had reached age 19. The basis for the petitioner's discontinuance was that he was no longer the caretaker relative of a child under age 19.

### DISCUSSION

To qualify for BadgerCare Plus, a non-pregnant adult must have both low income and be caring for his/her child under the age of 19. This is required by statute:

**(4) GENERAL ELIGIBILITY CRITERIA; APPLICABLE BENEFITS.**

**(a)** Except as otherwise provided in this section, all of the following individuals are eligible for the benefits described in s. 49.46 (2) (a) and (b), subject to sub. (6) (k):

**1.** A pregnant woman whose family income does not exceed 200 percent of the poverty line.

**2.** A child who is under one year of age, whose mother was, on the day the child was born, eligible for and receiving medical assistance under subd. 1<sub>2</sub> or 5<sub>2</sub> or s. 49.46 or 49.47, and who lives with his or her mother in this state.

**3.** A child whose family income does not exceed 200 percent of the poverty line. For a child under this subdivision who is an unborn child, benefits are limited to prenatal care.

**3m.** A child who obtains eligibility under sub. (7) (b) 2<sub>2</sub>.

**4.** An individual who satisfies all of the following criteria:

**a.** *The individual is a parent or caretaker relative of a child who is living in the home with the parent or caretaker relative* or who is temporarily absent from the home for not more than 6 months...

**b.** Except as provided in subd. 4. c., the individual's family income does not exceed 200 percent of the poverty line and does not include self-employment income.

**c.** If the individual's family income includes self-employment income, the individual's family income does not exceed 200 percent of the poverty line as calculated under sub. (7) (a) 2<sub>2</sub>.

**5.** An individual who, regardless of family income, was born on or after January 1, 1990, and who, on his or her 18th birthday, was in a foster care placement ... The coverage for an individual under this subdivision ends on the last day of the month in which the individual becomes 21 years of age, unless he or she otherwise loses eligibility sooner.

**6.** Migrant workers and their dependents who are determined eligible under sub. (6) (f).

**7.** Individuals who qualify for a medical assistance eligibility extension under s. 49.46 (1) (c), (cg), or (co) when their income increases above the poverty line.

[emphasis added]

Wis. Stat. § 49.471(4)(a). See also in accord, *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1 - .2, at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm>. The statute in turn defines a "child" as "an individual who is under the age of 19 years." Wis. Stat. § 49.471(1)(c).

The petitioner no longer has a child under age 19 residing with him, so he cannot be eligible for BCP. Thus, discontinuance of his BCP was correct.

BCP is a subset of the Medicaid program. Medicaid is available for other types of low income persons. Under current law, the eligible persons must be elderly, blind, or disabled per the Social Security definition of disability. Wis. Stat. §§ 49.46 - .47. The petitioner has not established at this time that he fits into any of those nonfinancial eligibility categories.

*Other Information*

Wisconsin Medicaid law will change significantly, effective January 1, 2013. On that date, a person is eligible for Wisconsin Medicaid if his income is at or below 100% of the federal poverty level; it will no longer be necessary that a recipient be under 19, elderly, blind, disabled, or a caretaker relative. The January 2014 version of Medicaid may be applied for online from November 18, 2013 onward at Wisconsin's website, <https://access.wisconsin.gov>.

The petitioner, who is self-employed, inquired about upcoming changes in healthcare accessibility under "Obamacare." As I stated at hearing, a person may apply for subsidized private health insurance beginning on October 1, 2013, with coverage beginning effective January 1, 2014 (if you enroll by December 15, 2013). Late enrollments will be allowed until March 31, 2014, but will not be retroactive. Enrollment can be accomplished via the federal website, <https://www.healthcare.gov> or through the federal call center at 1-██████████. When applying, the program will want to know the petitioner's tax household's adjusted gross income for the last tax filing year. If things are working properly, the program should be able to see the household's adjusted gross income for the prior year via a federal "data hub." That income information will be used to assign a percentage of poverty level to the household, which in turn is used to calculate the amount of the premium subsidy that will be provided. A household at 101% of the federal poverty level (FPL), and which picks a "silver" insurance plan, will pay no more than 2% of gross income for its premium, as the rest will be covered by the subsidy. The subsidy percentage tapers off as income rises. A household at 399% FPL, which picks a "silver" plan, will pay no more than 9.5% of its income for its premium. I believe that 400% FPL for a household of four persons (which the petitioner may have) is \$92,200.

When shopping for insurance via phone or website, the buyer will have a choice of plans labeled with various "medal" colors. Each color represents a different level of shared responsibility between the insurer and the insured for medical bills incurred. The breakdown is: Platinum-90% insurer/10% patient, Gold-80% insurer/20% patient, Silver-70/30, and Bronze-60/40. The idea behind this stratification is to allow the consumer to see "apples-to-apples" insurance comparisons. The patient's premium cost for a Platinum or Gold plan will be more than the percentages stated in the prior paragraph for a Silver plan.

The various insurance plans may also have varying co-payments and deductibles. If a household's income is below 250% FPL (about \$59,000 for a family of four), there will also be a subsidy to help pay co-payments and deductibles. This subsidy is called a "cost sharing reduction" or CSR.

Finally, the petitioner inquired as to which insurers would be available in Wisconsin's market for this program. As best as I can tell from the insurance commissioner's website, the following insurers will be available in parts (in some cases, all) of Wisconsin: Common Ground Healthcare Cooperative, CompCare Health Services Insurance Corporation, Dean Health Plan Inc., Group Health Cooperative of South Central Wisconsin, Gundersen Health Plan Inc., Health Tradition Health Plan, Medica Health Plans of Wisconsin, MercyCare HMO Inc., Molina Healthcare of Wisconsin Inc., Physicians Plus Insurance Corporation, Security Health Plan of Wisconsin Inc., Unity Health Plans Insurance Corp., and Arise (WPS).

I hope that the petitioner finds this information helpful.

**CONCLUSIONS OF LAW**

The Department correctly discontinued the petitioner's BCP coverage effective September 1, 2013.

**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 9th day of October, 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 October 9, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability