



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/151415

**PRELIMINARY RECITALS**

Pursuant to a petition filed August 16, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Kenosha County Human Service Department in regard to Medical Assistance, a hearing was held on September 12, 2013, at Kenosha, Wisconsin.

The issue for determination is whether Petitioner no longer is eligible for BadgerCare Plus (BC+) MA because of access to insurance.

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: Karen Mayer

Kenosha County Human Service Department  
8600 Sheridan Road  
Kenosha, WI 53143

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Kenosha County.
2. Petitioner received BC+ with her husband and children. The household had a review in August 2013, at which time the Department's new BC+ policy for insurance access was imposed.

3. Petitioner is employed with monthly income of \$2,225.60. Her employer offers health insurance but pays 74.4% of the premium. Under the former BC+ policy, the employer's payment of under 80% of the premium made the entire family eligible for BC+.
4. The monthly premium for Petitioner under the employer's insurance plan is \$164.12, which is 7.37% of the family's monthly income. The premium for Petitioner and her husband would be \$339.47 per month.
5. By a notice dated August 2, 2013, the agency informed Petitioner that BC+ for her and her husband would be ending effective September 1, 2013 because they have access to health insurance through her employer.

### **DISCUSSION**

To be eligible for BC+, a person must be under age 19, a custodial parent, or the spouse of a custodial parent. Wis. Admin. Code, §DHS 103.03(1)(f)1. Effective July 1, 2012, the Department implemented new provisions concerning BC+ eligibility for families with access to insurance, with the new policy becoming effective at each current household's next review. BC+ Handbook, Appendix 7.31.

Under the new policy, if an employer provides health insurance, members of the household are ineligible for BC+ under certain circumstances. Handbook, App. 7.3.3. Children are eligible if the employer pays less than 80% of the premium. However, adults are affected differently. If income is more than 150% of poverty, adults are ineligible for BC+ regardless of the amount of the premium paid by the employer or the employee. If income is between 133% and 150% of poverty, an adult can be eligible only if the percentage of the premium paid by the parent for *employee-only* insurance is more than 9.5% of monthly income. Handbook, App. 7.3.3.

133% of poverty for a three-person family is \$2,164.58. 150% of poverty for a three-person household currently is \$2,441.25. Handbook, App. 50.1.

Under the new rules the agency correctly determined that Petitioner and her husband are ineligible for BC+. Income is higher than 133% of poverty, albeit not by much, and the employer's health insurance premium for the employee only is less than 9.5% of household income. I thus must conclude that the agency correctly discontinued Petitioner and her husband's BC+ eligibility beginning September 1, 2013.

### **CONCLUSIONS OF LAW**

Petitioner and her husband are ineligible for BC+ because household income is above 133% of poverty and the employer sponsored insurance premium for employee-only insurance is less than 9.5% of monthly household income.

**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 Milwaukee,  
Wisconsin, this 5th day of November, 2013

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\sDavid D. Fleming  
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 5, 2013.

Kenosha County Human Service Department  
Division of Health Care Access and Accountability