



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCB/152089

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 16, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the La Crosse County Department of Human Services in regard to BadgerCare (BC) benefits, a telephonic hearing was held on October 28, 2013, at La Crosse, Wisconsin. At the request of the parties, the record was held open for a detailed closing argument by the county agency to DHA and petitioner, and then for a response by petitioner to DHA (with a copy to county agency). The county agency timely submitted such written argument, but no response was received from the petitioner at DHA.

The issue for determination is whether there is sufficient reliable evidence in the record to determine whether county agency correctly and accurately determined petitioner's household's eligibility for BadgerCare benefits as of September, 2013 and the amount of the household's BC premiums as of that date.

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, Room 651  
Madison, Wisconsin 53703

By: Tom Miller, supervisor

La Crosse County Department of Human Services  
300 N. 4th Street  
PO Box 4002  
La Crosse, WI 54601

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of La Crosse County who resides with her husband, [REDACTED], their 18 year old son, [REDACTED], and their minor son, KS.
2. The petitioner is an employee of [REDACTED] and has monthly earned income (with commissions) of about \$2,551.24 (August, 2013).
3. [REDACTED] receives monthly Social Security Disability of \$1,315.
4. Petitioner's son, [REDACTED], has earned income from [REDACTED] of about \$592.54 per month.
5. Petitioner's son, KS, receives monthly Social Security Surviving Child benefits of \$710.
6. The petitioner's household has total earned and unearned income of \$5,168.78 per month.
7. The county agency sent an August 6, 2013 verification request to the petitioner requesting verification of all earned and unearned income in her household by August 15, 2013. The verification was not received by the deadline.
8. The county agency sent an August 16, 2013 Notice of Decision to the petitioner stating that BadgerCare benefits would discontinue effective September 1, 2013 due to failure to timely verify all household earned and unearned income. See Exhibit 2.
9. During the October 28, 2013 hearing, petitioner alleged that the employment of her son, [REDACTED], had ended, but was unable to provide any verification of such end of employment.
10. While the record was held open, county supervisor Tom Miller sent an October 29, 2013 detailed closing argument to DHA and to the petitioner. That detailed summary confirmed the earned and unearned income as indicated in Findings of Fact # 2 - #6 above. That summary also confirmed that the last calculated BC premium was \$88 as of August, 2013. However, Mr. Miller offered that if [REDACTED] or KS had medical costs in September and/or October, 2013, then the agency could open BC Plus retroactive to September and/or October, 2013 with premiums based upon the new medical information provided.
11. While the record was held open, the hearing record is unclear whether petitioner did or did not submit any medical information or costs for her two sons to the county agency for a re-calculation of BC premiums and eligibility as of September, 2013.

### DISCUSSION

The petitioner was appealing the September 1, 2013 BC discontinuance due to failure to verify. Petitioner also disputed the calculation of earned income by alleging that her son, [REDACTED]'s, employment had ended. However, petitioner has not provided any evidence of such termination, unless it sent that verification to Supervisor Tom Miller.

In addition, the hearing record is unclear whether or not petitioner submitted any medical costs for her household to the county agency for a re-calculation of BC premiums and eligibility retroactive to September 1, 2013. Mr. Miller has kindly offered to re-calculate the petitioner's BC premiums, and has provided the opportunity for the petitioner to have submitted new evidence to the county agency. At this point, there is insufficient reliable information in the hearing record to reach a decision in this case regarding BC eligibility and BC premiums retroactive to September 1, 2013. See Finding of Fact #9 - #11 above. Based upon the above, I am remanding this case to the county agency with instructions to review the petitioner's BadgerCare eligibility and premiums retroactive to September 1, 2013, and send a new, updated notice of decision to the petitioner and take any other appropriate action in this case.

**CONCLUSIONS OF LAW**

There is insufficient reliable evidence in the record to determine whether petitioner's household is eligible for BadgerCare benefits and if eligible, the accurate amount of her required BadgerCare premiums retroactive to September, 2013.

**THEREFORE, it is**

**ORDERED**

The matter is remanded to county agency with instructions to: a) review the petitioner's BadgerCare (BC) eligibility and appropriate BC premiums retroactive to September 1, 2013; and b) issue to the petitioner a new notice of decision which explains in detail the county's re-determination of petitioner's BadgerCare eligibility and premiums retroactive to September 1, 2013, within 10 days of the date of this Decision. If the petitioner wishes to appeal that new notice, she must file a new appeal with the Division of Hearings and Appeals and include a copy of that new Notice of Decision.

**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, Room 651, 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 30th day of December, 2013

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\sGary M. Wolkstein  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, 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 December 30, 2013.

La Crosse County Department of Human Services  
Division of Health Care Access and Accountability