



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCC/152633

PRELIMINARY RECITALS

Pursuant to a petition filed October 05, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Wood County Human Services - WI Rapids in regard to the BadgerCare Plus Core Plan, a Wisconsin Medical Assistance (MA) variant, a hearing was held on November 26, 2013, by telephone.

The issue for determination is whether the Department correctly discontinued the petitioner's BCP-Core Plan case effective July 1, 2013, due to failure to pay a premium.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703
By: Beulah Garcia, Resolution Coordinator
Wood County Human Services – Wis. Rapids
320 West Grand Avenue
PO Box 8095
Wisconsin Rapids, WI 54495-8095

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Wood County.
2. The petitioner has been on BadgerCare Plus Core (BCP-C) Plan medical coverage since 2009. BCP-C is a Wisconsin variant of MA for childless, low-income, non-elderly, non-disabled adults.

3. The petitioner's annual case review was completed in May 2013. The Department then determined that the petitioner continued to be eligible for BCP-C, subject to payment of a \$71 monthly premium.
4. On May 6, 2013, the Department issued written notice to the petitioner advising that her BCP-C benefit could continue if she paid a premium by June 1. This notice was mailed to the petitioner's correct mailing address of [REDACTED], and was not returned to the Department as undelivered. Exhibit 1. The petitioner received this notice.
5. As of June 1, 2013, the petitioner had not paid the BCP-C premium. On June 18, 2013, the Department issued written notice to the petitioner advising that her BCP-C case would close closed due to her failure to pay the June BCP-C premium. Exhibit 2. The same post office box was used as the mailing address, and the notice was not returned to the Department.
6. The petitioner required medical services in September 2013. She asserts that she learned at that time that she no longer had BCP-C coverage.

### DISCUSSION

Preliminarily, I note that the petitioner's October 5, 2013, appeal was filed late. It should have been filed within 45 days of the July 1, 2013 discontinuance notice, per state law. Wis. Stat. § 49.45(5). The petitioner testified that she did not receive the June 18 discontinuance notice. I do not believe this, but will include the discussion below as an informational courtesy.

The BCP "Core Plan" is a Wisconsin variant on MA for adults without dependent children, which provides basic health care coverage to adults who do not otherwise qualify for Medicaid or the BadgerCare Plus Standard or Benchmark Plans. A successful applicant must have gross income below 200% of the Federal Poverty Level (FPL). *BCP Eligibility Handbook (BCPEH)*, §43.2, online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> ; Wis. Stat. §49.45(23). The 200% of FPL for one person is available at *BCPEH*, §50.1. There is no dispute that the petitioner's income was under 200% FPL here.

An eligible BCP-C member with income above 133% of the FPL is required to pay monthly premiums as a condition of enrollment and continued eligibility. *BCPEH*, § 43.7.3.1. The petitioner was notified of this requirement on May 6, 2013. It is undisputed that she made no premium payment. When a premium payment is not made, the Department closes the BCP-C, and disqualifies the former member for 12 months, unless good cause is established. *Id.*, § 43.7.3.7.1.

The petitioner has not established good cause for her nonpayment here. *Id.* § 43.7.3.7.3. The petitioner states that she did not receive the May 6 notice advising that a premium would be due by June 1. The document was mailed to the petitioner's correct address and was not returned to the agency as undelivered. The Department enjoys the presumption that a mailed, correctly addressed document that is not returned by the postal service was received by the addressee. The petitioner has not rebutted that presumption. Thus, the agency's discontinuance of the BCP-C case was proper.

Even if I had ordered the agency to reopen the petitioner's Core Plan benefit, current state law calls for all Core Plan cases to end on December 31, 2013. The petitioner may wish to go the new healthcare website, [www.healthcare.gov](http://www.healthcare.gov), or call 1-800-318-2596 and apply for private health insurance (which can begin 1/1/14) along with a government subsidy to help pay for the premiums.

**CONCLUSIONS OF LAW**

1. Discontinuance of the petitioner's BCP-C was correct due to failure to pay her BCP-C premium.

**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 27th day of November, 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 November 27, 2013.

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