



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/153019

PRELIMINARY RECITALS

Pursuant to a petition filed October 23, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services ["MiLES"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on November 19, 2013.

The issue for determination is whether it was correct to discontinue petitioner's BadgerCare plus Medical Assistance ["BC+"] effective October 1, 2013.

There appeared at that time via telephone 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: Yia Xiong, Income Maintenance ["IM"] Specialist II
Pang Thao-Xiong, IM Specialist II
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. The County discontinued BC+ for petitioner effective October 1, 2013.

3. In August 2013 petitioner's son turned 19 years old; there is no longer any child in petitioner's household that is less than 19 years old.
4. Petitioner is not any of the following: pregnant; the parent/caretaker of a child(ren) under 19 years of age; a young adult exiting out of home care (such as foster care); or, a parent/caretaker relative whose child(ren) have been removed from the home and placed in out of home care.

DISCUSSION

In order to be eligible for BC+ a person, such as petitioner, who is 19 years of age or older must be 1 of the following: pregnant; the parent/caretaker¹ of a child(ren) under 19 years of age; a young adult exiting out of home care (such as foster care); or, a parent/caretaker relative whose child(ren) have been removed from the home and placed in out of home care. Wis. Stat. § 49.471(4) (2011-12); Wis. Admin. Code § DHS 103.03(1)(f)1. (December 2008); *BadgerCare + Eligibility Handbook* ["BC+ Handbook"] 1.1 & 2.1. Petitioner is any of these things and does not claim to be. Therefore, it was correct to discontinue BC+ effective October 1, 2013.

Petitioner testified that she was approved for and had breast reduction surgery and that she needs BC+ because she is still receiving post-surgical care. Unfortunately, there is no exception in the law for circumstances such as this. See, Wis. Admin. Code § DHS 107.02(3)(i)2.d. (May 2009).

CONCLUSIONS OF LAW

For the reasons discussed above, it was correct to discontinue petitioner's BC+ effective October 1, 2013.

NOW, THEREFORE, it is

ORDERED

That 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.

¹ A *caretaker relative* means an individual who, among other things, is maintaining a residence as a child's home and who exercises primary responsibility for the child's care and control including making plans for the child. Wis. Stat. § 49.471(1)(b) (2011-12).

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 9th day of December, 2013

\sSean P. Maloney
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 December 9, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability