



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

BCC/153474

**PRELIMINARY RECITALS**

Pursuant to a petition filed November 12, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Washington County Department of Social Services in regard to Medical Assistance, a hearing was held on December 18, 2013, at West Bend, Wisconsin.

The issue for determination is whether the Washington County Department of Social Services (the agency) correctly terminated the Petitioner’s Badger Care+ Core benefits 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, Room 651  
Madison, Wisconsin 53703

By: Ken Benedum, Economic Support Specialist  
Washington County Department of Social Services  
333 E. Washington Street  
Suite 3100  
West Bend, WI 53095

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Washington County.

- 2. Petitioner had a renewal that was due by August 31, 2013. The Petitioner called in on August 29, 2013 to complete his renewal. His case was open and pended for verification of income. (Exhibit 2, testimony of Mr. Benedum.)
- 3. On August 30, 2013, the agency sent Petitioner a notice indicating that he was no longer enrolled in the BadgeCare+ Core plan as of September 1, 2013, because he had not completed a renewal and that if he wanted to continue receiving the benefit, he would need to complete his renewal by September 30, 2013. (Exhibit 3)
- 4. On September 18, 2013, the agency sent the Petitioner a Notice of Action and Proof Needed, indicating that he needed to pay a premium by September 27, 2013 and that he needed to provide verification of income by September 27, 2013. (Exhibit 4)
- 5. On September 26, 2013, Petitioner reported that he was no longer working and that his last check was dated September 13, 2013. (Exhibit 2) There is no indication in the record that the agency sent Petitioner a Notice of Proof needed, requesting verification of the termination of his employment.
- 6. Petitioner provided pay stubs by the September 27, 2013 deadline that included Petitioner’s paychecks for August 2013. The agency calculated Petitioner’s gross income for August 2013 as follows:

08/08/13 check for \$390.00  
 08/15/13 check for \$350.00  
 08/15/13 check for \$40.00  
 08/22/13 check for \$700.00  
 08/29/13 check for \$430.00  
 08/16/13 check for \$140.00

Total Gross Income: \$2050 (Exhibits 2, 6 and 7)

- 7. On September 30, 2013, the agency sent the Petitioner a notice indicating that as of September 1, 2013, he was not enrolled in the BadgeCare+ Core plan, because his income was over the program limit. (Exhibit 5)
- 8. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on November 12, 2013. (Exhibit 1)
- 9. Petitioner has no outstanding medical bills. (Testimony of Petitioner)

**DISCUSSION**

The agency correctly calculated Petitioner’s There appear to be two issues with Petitioner’s case, one dealing with verification the second with the timeliness of the agency’s notice that it was terminating Petitioner’s benefits.

*Verification*

“Verification means to establish the accuracy of verbal or written statements made by, or about a group's circumstances. Case files or case comments must include documentation for any information required to be verified to determine eligibility or benefit levels.” *BadgerCare+Handbook (BEH) §9.1* Proof of certain information is required to determine eligibility for BadgerCare+. *BEH §9.1* Items that must be verified are categorized as information that it is mandatory to verify and information that is questionable.

Items that it is mandatory to verify are:

- 1. Social Security Number

2. Citizenship and Identity
3. Immigrant Status
4. Pregnancy, if eligibility is based on the pregnancy, although as of January 1, 2014, it will no longer be necessary to verify pregnancy.
5. Medical Expenses (for deductibles only)
6. Documentation for Power of Attorney and Guardianship
7. Migrant worker's (eligibility in another state)
8. Income
9. Health Insurance Access
10. Health Insurance Coverage
11. Family Re-unification plan for Child Welfare Parents
12. The placement status of a FFCY on his/her 18<sup>th</sup> birthday
13. Tribal membership or Native American Descent
14. Pre-tax Deductions
15. MAGI Tax Deductions

*BEH §9.9*

Information is questionable for BC+ when:

1. There are inconsistencies in the group's oral or written statements.
2. There are inconsistencies between the group's claims and collateral contacts, documents, or prior records.
3. The member or his/her representative is unsure of the accuracy of his/her own statements.
4. The member has been convicted of Medicaid or BC+ fraud or has legally acknowledged his/her guilt of member fraud. Do not require a member to provide verification for the sole reason that they have acknowledged or been convicted of fraud in any other public assistance or employment program.
5. The member is a minor who reports that s/he is living alone. This does not apply to minors applying solely for Family Planning Services.
6. The information provided is unclear or vague.

*BEH §9.10*

“Except for verification of access to employer sponsored health insurance, the member has primary responsibility for providing verification and resolving questionable information. However, the income maintenance worker must use all available data exchanges to verify information rather than requiring the [applicant](#)  to provide it.” *BEH §9.8*

BadgerCare+ benefits may be reduced when all of the following are true:

1. The member has the power to produce the verification.
2. The time allowed to produce the verification has passed.
3. The member has been given adequate notice of the verification required.
4. The agency needs the requested verification to determine current eligibility.

*BEH §9.4.11*

Current benefits may not be denied or reduced because a member does not verify some past circumstance not affecting current eligibility. *Id.*

In the case at hand, the Petitioner stated that his employment ended, this made his employment status questionable. Consequently, per the BadgerCare+ policy manual cited above, the agency was obligated to request verification of the termination of his employment. It does not appear that the agency did this before determining that the Petitioner was over the income limit and ending his benefits. As such, the agency did not give the Petitioner adequate notice of the required verification.

#### *Timeliness of the Notice of Termination*

Per the BadgerCare+ Eligibility Handbook §29.1, “A member must receive notice at least ten days prior to a negative action such as a termination of benefits...” The agency did not give the Petitioner ten days notice of his disenrollment from the BadgerCare+ Core program. On August 30, 2013, the agency gave the Petitioner only one day notice of his disenrollment effective September 1, 2013 and the September 30, 2013 notice was retroactive. Consequently, the agency did not correctly terminate Petitioner’s BadgerCare+ Core benefits effective September 1, 2013 and will have to reinstate his benefits, until they give him proper notice.

#### *Other Matters*

**The Petitioner should note that effective March 31, 2014, the BadgerCare+ Core program will end. After that time, only childless adults with income under 100% of the Federal Poverty Level (\$957.50 per month for a single person) will be eligible for BadgerCare+ benefits.** Core Plan members at or below 100% FPL will be transitioned to the new BC+ childless adults category and those over 100% FPL will be referred to the Marketplace (also known as the Federally-facilitated Marketplace) *BEH §43.8.3*

The Petitioner can apply for health insurance through the Marketplace by calling [REDACTED] or by going on-line at [www.healthcare.gov](http://www.healthcare.gov).

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 amount of the premium will depend upon the level of coverage chosen and household income. For example, a household at 101% of the federal poverty level (FPL), 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.

The various insurance plans may also have varying co-payments and deductibles. If a household’s income is below 250% FPL there will also be a subsidy to help pay co-payments and deductibles. This subsidy is called a “cost sharing reduction” or CSR.

#### **CONCLUSIONS OF LAW**

The agency did not correctly terminate the Petitioner’s BadgerCare+ Core benefits effective September 1, 2013.

**THEREFORE, it is**

**ORDERED**

That the agency reinstate Petitioner's BadgerCare+ Core benefits, effective September 1, 2013, until such time as it gives him proper notice of the termination of his benefits. The agency shall take all administrative steps to complete this task within ten days of this 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 Milwaukee,  
Wisconsin, this 17th day of January, 2014.

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\sMayumi M. Ishii  
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 January 17, 2014.

Washington County Department of Social Services  
Division of Health Care Access and Accountability