



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION ON REHEARING

BCS/153631

PRELIMINARY RECITALS

Pursuant to a petition filed November 20, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Crawford County Department of Human Services in regard to Medical Assistance (MA)/BadgerCare Plus (BCP), a hearing was held on January 21, 2014, by telephone. A previous hearing date was missed by the petitioner, resulting in dismissal of her appeal. She timely requested rehearing, which was granted and resulted in the hearing of January 21, 2014.

The issue for determination is whether the Department correctly discontinued the petitioners adult BCP during her incarceration.

There appeared at that time 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: Ms. Kirby Crubel, ES Advisor
Crawford County Department of Human Services
225 N Beaumont Rd., Suite 326
Prairie Du Chien, WI 53821

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Crawford County.

2. Prior to December 2013, the petitioner had an open BCP/MA case for herself and her son. On November 4, 2013, the Department issued written notice to the petitioner advising that her adult BCP case would close effective December 1, 2013. The Department's basis for discontinuance was that the petitioner was incarcerated. The petitioner appealed.
3. The petitioner's incarceration began on October 16, 2013. It is expected to end next week.
4. During the petitioner's incarceration, her son continued to receive MA benefits, as he is on SSI (automatic eligibility, per federal and state statute).

DISCUSSION

BCP is a Wisconsin variant of MA for low-income households with children or pregnant women. A person who is incarcerated or placed in a public institution is not eligible to receive BCP or MA. *BCP Eligibility Handbook*, §3.6, at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> ; 42 C.F.R. §§ 435.1009 - 1010. A jail is considered such a "public institution" as long as it provides food, shelter and "some treatment or services". The petitioner noted that the jail does not pay for her prescriptions while she is incarcerated; MA rules do not require the institution to pay for *all* medical services and prescriptions, even though paying for prescriptions might be a good idea. There is no dispute as to the duration or fact of the petitioner's incarceration. Thus, the closure was correct.

The petitioner may reapply for BCP benefits as soon as she is released from jail.

CONCLUSIONS OF LAW

1. The Department correctly discontinued BCP benefits to the petitioner.

THEREFORE, it is

ORDERED

That the petition is dismissed.

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 22nd day of January, 2014

\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 January 22, 2014.

Crawford County Department of Human Services
Division of Health Care Access and Accountability