



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCC/154505

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 28, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Oconto County Department of Health And Human Services in regard to Medical Assistance, a telephonic hearing was held on March 18, 2014, at Oconto, Wisconsin. At the request of petitioner, a hearing set for February 10, 2014 was rescheduled.

The issue for determination is whether the county agency correctly discontinued petitioner's BadgerCare (BC) Plus Core Plan benefits effective December 1, 2013, and restricted petitioner's reenrollment in BadgerCare, due to non-payment of her BC premium.

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: Mary Lou Lemke, ESS  
Oconto County Department of Health and Human Services  
501 Park Avenue  
Oconto, WI 54153-1612

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Oconto County who received Badgercare Plus Core Plan benefits for herself.

2. The county agency sent a September 27, 2013 Notice to the petitioner at her correct address of record stating that based upon her income verification, she would need to pay a monthly premium of \$39.00 as of October 1, 2013 to continue her BadgerCare (BC) Plus Core Plan benefits. See Exhibit 3. Petitioner received that notice.
3. The county agency sent an October 21, 2013 Notice of Decision to the petitioner stating that she had not timely paid her October, 2013 BadgerCare premium, and that her BC benefits would be discontinued effective December 1, 2013 due to non-payment of BC premiums unless she paid that October premium by the end of November, 2013. Exhibit 2. That notice also stated that she would be placed in a 12 month restrictive re-enrollment period as of December 1, 2013, due to her failure to timely pay her BadgerCare premium. See Exhibit 2. The petitioner received Exhibit 2.
4. The petitioner did not pay her October, 2013 premium by the end of November, 2013, due to “confusion” or “misunderstanding” about the need for the premium payment. See Exhibit 1.

### DISCUSSION

BadgerCare (BC) Plus is an expansion of the Wisconsin MA program designed to provide coverage to children under age 19 and their parents. Wis. Adm. Code, §DHS 103.03(1)(f). To be eligible for BC, a person must be under age 19, a custodial parent, or the spouse of a custodial parent. Wis. Adm. Code, §DHS 103.03(1)(f)1. During 2013, parents in a BC+ household were eligible only if the total household income was no greater than 200% of the federal poverty level. See the BadgerCare + Eligibility Handbook, §16.1. During 2013, a household that was eligible for BadgerCare + needed to pay a premium if its income was above 150% of the federal poverty level (FPL). Wis. Adm. Code, §DHS 103.085(b)(1).

A household must also meet financial requirements. Some recipients must pay a monthly premium based upon income. As a general rule, individuals who are assessed a premium for BadgerCare eligibility must make the assessed premium payment in a timely fashion or eligibility may be discontinued. BC+, § 19.1. If an individual or family with a premium obligation fails to pay the premium by adverse action of the benefit month, the BC+ will close for those individuals, who owed a premium and those individuals are not eligible for 12 calendar months following the date on which their coverage terminated unless there was good cause established. BadgerCare + Eligibility Handbook, §19.8. In this case the adverse action date was December 1, 2013.

If a late payment is received by the end of the month after the benefit month, lift the Restrictive Re-enrollment Period (RRP) (19.11) and reinstate eligibility. In the instant case, the petitioner failed to make her late payment during November, 2013 (month after the benefit month). Therefore, the petitioner’s Restrictive Re-enrollment could not be lifted by the county agency. Individuals who are able to present good cause for the failure to pay a premium may have the restrictive re-enrollment period lifted. However, the person will still have to pay the premiums in arrears before eligibility will begin again. BC+, § 19.11.2. The following are the good cause reasons:

#### 19.8.2 Good Cause for Non-Payment

Good cause reasons for not paying the BC premium are:

1. Problems with the financial institution.
2. CARES Problem.
3. Local agency problem.
4. Wage withholding problem.
5. Fair hearing decision.

During the March 18, 2013 hearing, the petitioner admitted that she received all the notices from the county agency. However, petitioner alleged that she ignored those notices because she was “confused.” Basically, petitioner explained that she was “confused” about whether or not she needed to pay her BC premium or wait for Family Planning Services, but admitted receiving the notices stating clearly that her BC premium was due by the end of November, 2013. As indicated above, such explanation did not establish that her circumstance met any of the allowable good cause reasons stated above in the BadgerCare + Eligibility Handbook, §19.8.2, “Good Cause for Non-payment.” As a result, petitioner was unable to establish any good cause for her failure to timely pay her required BadgerCare premium by the end of November, 2013.

The record is clear that petitioner failed to pay her BadgerCare premium during the premium month of October, 2013 or the month after the benefit month as required. The petitioner was unable to establish that her failure to timely pay her BadgerCare premium was due to circumstances beyond her control or any other listed good cause reason. Accordingly, for the above reasons, the county agency correctly discontinued petitioner’s BadgerCare effective December 1, 2013, and continued that discontinuance during the 12 month restrictive re-enrollment period per BadgerCare Plus Eligibility Handbook, §19.11, “BadgerCare Plus Restrictive Reenrollment.”

### **CONCLUSIONS OF LAW**

The county agency correctly discontinued petitioner’s BadgerCare Core benefits effective December 1, 2013, and continued that discontinuance during the 12 month restrictive re-enrollment period pursuant to the BadgerCare + Eligibility Handbook, §19.11. “BadgerCare Plus Restrictive Reenrollment.”

**THEREFORE, it is**

**ORDERED**

The petition for review herein be and the same is hereby Dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 24th day of April, 2014

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\sGary M. Wolkstein  
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 April 24, 2014.

Oconto County Department of Health And Human Services  
Division of Health Care Access and Accountability