



FH
[REDACTED]

STATE OF WISCONSIN Division of Hearings and Appeals

In the Matter of
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

Case #: BCS - 219426

PRELIMINARY RECITALS

Pursuant to a petition filed on July 31, 2025, under Wis. Stat. § 49.45(5)(a), to review a decision by the Ozaukee County Department of Social Services regarding Medical Assistance (MA), a hearing was held on September 18, 2025, by telephone.

The issue for determination is whether the agency correctly denied the petitioner's BadgerCare Plus health care benefits as of August 1, 2025.

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, WI 53703

By: Ka Xiong
Ozaukee County Department of Social Services
121 W. Main Street
PO Box 994
Port Washington, WI 53074-0994

ADMINISTRATIVE LAW JUDGE:
Kate J. Schilling
Division of Hearings and Appeals

FINDINGS OF FACT

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

2. On June 25, 2025, the agency received an alert that the petitioner had earned income from [REDACTED] that had not been reported to the agency.
3. On June 26, 2025, the agency sent out a request for verification of employment income, with a due date of July 15, 2025.
4. On July 15, 2025, the petitioner called the agency and reported that his employment with [REDACTED] had ended. He also reported that his new employment with [REDACTED] had also ended.
5. On July 16, 2025, the agency sent a request for verification of the petitioner's final paycheck at the roofing job, due August 4, 2025.
6. On July 18, 2025, the agency sent out a notice to the petitioner that his benefits would be ending as of August 1, 2025. The agency acknowledged that this notice was sent out in error.
7. On July 31, 2025, the petitioner requested a fair hearing to appeal the denial of his BadgerCare Plus health care. He requested that his health care benefits be continued pending the appeal.
8. On August 5, 2025, the agency sent out a notice to the petitioner that his health care was denied as of August 1, 2025, due to failure to provide verification of income.
9. On August 11, 2025, the agency reviewed the petitioner's request for a fair hearing and saw his statement that he would be attending school full-time.
10. On August 12, 2025, the agency requested that the petitioner provide verification of any student loans and/or grants that he was receiving. Verification was due by September 2, 2025.
11. On September 16, 2025, the petitioner submitted information to the agency regarding his student loans and/or grants; however, it was insufficient verification as it was not official documentation from the school or a financial institution.

DISCUSSION

To be eligible for BadgerCare Plus (BCP), individuals must have income that is less than the applicable program income limit. Parents and caretakers of minor children as well as childless adults are subject to a monthly income limit of 100% of the federal poverty level (FPL) which is currently \$1,304.17 for a household of one. *BadgerCare Plus Eligibility Handbook (BCP Handbook)* §16.1.1. Generally, the test group size of a tax filer who is not being claimed as a tax dependent by another individual includes himself, his spouse (if any), and all of his tax dependents. *BCP Handbook* §2.3 and 42 C.F.R. §435.603(f)(1).

If an individual has fluctuating monthly income, their income may exceed 100% FPL in one or more months of the year, but their annual income may still remain under 100% FPL, currently \$15,650 for a household of one. Accordingly, the agency must evaluate both whether the individual's income in the past thirty days has exceeded 100% FPL and whether the individual's anticipated countable annual income will exceed 100% FPL. See *BCP Handbook* §16.9 and §28.3.1.

The petitioner had been eligible for BadgerCare Plus as a household of one. In June 2025, the agency received an alert that the petitioner had unreported employment wages at [REDACTED]. The agency

representative pended the case for verification of the petitioner's employment and income, due back by July 15, 2025. On July 15, 2025, the petitioner called the agency to report that he was no longer working at [REDACTED], and that he was also no longer working at a roofing job that he had recently started. On July 16, 2025, the agency requested verification of his wages and last paycheck from the roofing job. This verification was due by August 4, 2025. The agency terminated the petitioner's health care on August 5, 2025, for failure to verify this income.

In his request for an appeal, the petitioner indicated that he was unemployed and would be a full-time student as of September 2. Based on this information, the agency sent out a request for verification of the petitioner's school loans and/or grants on August 12. This information was due to the agency by September 2. On September 16, the petitioner submitted documentation to the agency regarding the amount of his financial aid; however, it was not official documentation from the school or a financial institution, and was therefore insufficient.

At the hearing, the petitioner testified that he was currently a full-time college student and not working. The petitioner consented to his mother testifying on his behalf. She testified that the petitioner needed the health care benefits to maintain his prescriptions and medical treatments. The petitioner's mother also testified that the human resources person at the roofing agency was out of town when they requested the income verification and that is why they were not able to submit it on time. They had ultimately sent that income verification information to the agency just prior to the hearing.

Under the BCP Handbook §9.4, a person must be given 20 days to provide requested verification documents.

9.4 Changes

When a change is reported that requires verification, the member must be notified in writing of the specific verification required and allowed a minimum of 20 days to provide it.

BCP Handbook §9.4. The petitioner reported to the agency on July 15, 2025, that his prior employment with [REDACTED] had ended, that he had started employment at a roofing job, but it had ended as well. The agency representative pended the case for verification of the petitioner's final paycheck, which was due by August 4, 2025. The agency sent notice of the termination on August 5, 2025 and indicated that the termination of health care occurred on August 1, 2025. This means that the petitioner's benefits were terminated retroactively.

It is well-settled precedent that beneficiaries must be given at least 10 days advance notice prior to an adverse action, such as a reduction or termination in benefits. *Goldberg v. Kelly*, 397 U.S. 254 (1970); There are very few situations where BCP benefits can be terminated without at least 10 days advance notice.

29.1.4.2 Timely Notice of Adverse Action

Timely notice must be provided at least **10 days** before the effective date of any intended adverse action **unless** one or more of the following circumstances apply:

- Factual information confirms a recipient or payee's death and there is no relative to take their place as primary person
- A clear, written statement initiated and signed by the member is submitted stating they no longer wish to receive benefits
- The member has applied for and is receiving benefits from another state

BCP Handbook § 29.1.4.2. The petitioner's case is not one of the three situations described above that would be an exception to the requirement of at least 10 days advance notice prior to an adverse action. As such, the agency should have terminated the petitioner's BCP benefits as of September 1, 2025, rather than August 1, 2025.

As of the date of the hearing, the petitioner was working closely with the agency to re-establish eligibility for health care going forward. In the future if the petitioner requires additional time to obtain verification documentation requested by the agency, he may consider calling the Income Maintenance Consortium to request an extension of time to produce the verification.

CONCLUSIONS OF LAW

The agency incorrectly denied the petitioner's BadgerCare Plus as of August 1, 2025, without providing at least 10 days advance notice of the termination of benefits.

THEREFORE, it is **ORDERED**

That the case is Remanded to the Income Maintenance agency with instructions to reinstate the petitioner's BadgerCare Plus eligibility through September 1, 2025, rather than August 1, 2025. The agency shall do this within 10 days of the date of this decision.

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, 4822 Madison Yards Way, 5th Floor North, 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.

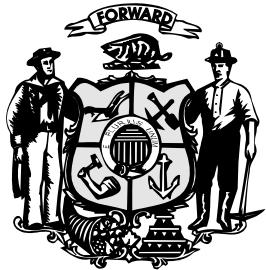
APPEAL TO COURT

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, **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 15th day of October, 2025

\s _____
Kate J. Schilling
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 October 15, 2025.

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