



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: BCS - 220537

PRELIMINARY RECITALS

Pursuant to a petition filed on October 22, 2025, under Wis. Stat. § 49.45(5)(a), to review a decision by the Dunn County Department of Human Services regarding Badger Care / Medical Assistance (MA), a hearing was held on December 10, 2025, by telephone.

The issue for determination is whether the Division of Hearings and Appeals has jurisdiction to review the issue in dispute or to order the remedy Petitioner seeks.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
201 E. Washington Ave.
Madison, WI 53703

By: Rebecca Arbs

Dunn County Department of Human Services
808 Main Street
PO Box 470
Menomonie, WI 54751

ADMINISTRATIVE LAW JUDGE:

Teresa A. Perez
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of St. Croix County.
2. On November 11, 2024, Petitioner filed an application for health coverage through the federally facilitated marketplace (FFM) because he had been advised that he was not eligible for

BadgerCare Plus. On the same date, the FFM forwarded that application to the income maintenance agency so that Petitioner could be screened for Medical Assistance / BadgerCare Plus (BCP) eligibility.

3. By notice dated November 18, 2024, the agency informed Petitioner that he was, in fact, eligible for BCP as of November 1, 2024.
4. Petitioner's mother, who assisted him with his health coverage applications, called the Income Maintenance Consortium phone number that appears on the first page of that notice, stated that they thought he did not qualify for BCP, and that he had therefore applied for insurance through the FFM. Based on that contact and a subsequent contact, she believed that Petitioner's BCP would be closed.
5. Petitioner received a Forward Health card in the mail and his mother mailed the card back with a letter that said Petitioner did not qualify for BCP.
6. Petitioner had private insurance through one of his parent's employer health plans through the end of 2024. As of January 2025, he signed up for a health plan through the FFM, received a tax subsidy, and paid a \$17 monthly premium.
7. On October 1, 2025, the health care plan that Petitioner had signed up with through the FFM withdrew \$817 from his bank account. The health care plan indicated to Petitioner that it had learned that Petitioner had an open BCP case, that he was therefore no longer eligible for the subsidized premium, and that the \$817 represented his total unsubsidized premiums for the months of September 2025 and October 2025.
8. On October 2, 2025, Petitioner and his mother contacted the agency and expressed confusion as to why he had an open BCP case and requested that it be closed.
9. On the date of the hearing in this matter, Petitioner confirmed that he wished for BCP to be closed retroactively to October 2, 2025 and the agency confirmed that it would do so. The agency; however, determined that it could not close his BCP earlier than that date.
10. Petitioner filed an appeal in hopes that he could obtain documentation showing that he did not have BCP coverage so that he could present that to his private health plan and ask for a refund of the amount withdrawn from his bank account for September and October 2025 unsubsidized premiums.

DISCUSSION

Petitioner here asserts that the agency made a mistake that adversely affected him but that does not mean that he has a right to a fair hearing regarding that mistake or that the Division of Hearings and Appeals has the authority to review the agency's conduct. The Division of Hearings and Appeals has only the authority explicitly granted by relevant federal and state law. Wisconsin Administrative Code sets forth the following actions and inactions the Division of Hearings and Appeals may review through the fair hearing process:

- (1) Any person applying for or receiving medicaid, food stamps, social services or public assistance may appeal any of the following administrative actions of the department or an agency:

- (a) Denial of an application for benefits or the overt denial of the right to apply.
 - (b) Failure to act on an application with reasonable promptness.
 - [HA 3.03\(1\)\(c\)](#)(c) Reduction, suspension or termination of program benefits.
 - (d) The determination of the amount, sufficiency, initial eligibility date of program benefits excluding COP program benefits.
 - (e) A change in the form of payment of benefits.
 - (f) For the COP program and medicaid waiver services, the denial of eligibility for services or reduction or termination of services as provided in s. [46.27 \(7m\)](#), Stats.
 - (g) A determination with regard to the preadmission screening and annual resident review requirements of section 1919(e)(7) of the Social Security Act of 1935, as amended.
 - (h) A decision to transfer or discharge a resident from a facility subject to the requirements of [42 CFR 483.12](#).
 - (i) A denial or termination of eligibility for medicaid under the Katie Beckett waiver program under section 1902(e)(3) of the Social Security Act.
 - (j) A decision to impose a medicaid lien or to deny a hardship waiver under s. [49.496](#), Stats.
 - (k) Any other decision or action affecting a medicaid applicant or enrollee where a hearing is required by law.
 - (L) A decision to deny a hardship waiver under s. [49.682 \(5\)](#), Stats., with regard to the recovery of benefits under a chronic disease program.
 - (m) The determination under s. [49.85](#), Stats., to recover an overpayment of benefits by means of certification to the Wisconsin department of revenue and the determination of the amount of such an overpayment as including an amount they believe has already been repaid or discharged in bankruptcy.
 - (n) A denial of an application for kinship care payment on the grounds specified in s. [48.57 \(3m\) \(am\) 1., 2., 4., 4m. and 5.](#), Stats., or the termination of kinship care payments.
 - (o) Removal of a child or any other decision or order by an agency or department that affects the head of a foster, treatment foster or group home or the children involved, per s. [48.64 \(4\)](#), Stats.
- (2) An applicant for or recipient of medicaid may appeal a decision or order of a managed care entity which denies, reduces, terminates or otherwise limits services, which denies an enrollee's request for disenrollment or exemption from the entity or which otherwise adversely affects the individual.
 - (3) A former recipient of medicaid, food stamps, aid to families with dependent children or W-2 may appeal the determination that he or she has been overpaid benefits, the amount of such an overpayment still owing or whether it has been discharged in bankruptcy or the determination under s. [49.85](#), Stats., to recover such an overpayment by means of certification to the Wisconsin department of revenue.
 - (4) An applicant, recipient or former recipient may appeal any other adverse action or decision by an agency or department which affects their public assistance or social services benefits where a hearing is required by state or federal law or department policy.

The federal regulation governing the right to a fair hearing for Medicaid (i.e., BCP) applicants and recipients appears at 42 CFR §431.213 and states, in relevant part, as follows:

The State agency must grant an opportunity for a hearing to the following:

- (1) Any individual who requests it because he or she believes the agency has taken an action erroneously, denied his or her claim for eligibility or for covered benefits or services, or issued a determination of an individual's liability, or has not acted upon the claim with reasonable promptness . . .

The term “action” is specifically defined to mean one of the following: A termination, suspension of, or reduction in covered benefits or services, including benefits or services for which there is a current approved prior authorization; a termination, suspension of, or reduction in Medicaid eligibility, or an increase in beneficiary liability, including a determination that a beneficiary must incur a greater amount of medical expenses to establish income eligibility; a determination that a beneficiary is subject to an increase in premiums or cost-sharing charges; or a determination by a skilled nursing facility or nursing facility to transfer or discharge a resident and an adverse determination by a State regarding the preadmission screening and resident review requirements. 42 C.F.R. §431.201.

Neither the administrative code nor the federal regulations include a right to a fair hearing regarding an agency’s failure to close a case promptly when asked to do so by a benefit recipient. Although an agency’s failure to do so may certainly constitute a mistake, not every type of agency mistake confers the right to a fair hearing. And, as indicated above, if there is no right to a fair hearing, the Division of Hearings and Appeals has no authority to review the matter in dispute. Moreover, I could find nothing in state or federal law suggesting that DHA has the right to order the retroactive closure of BCP.

I do note that the only first-hand evidence offered at hearing regarding Petitioner’s request to close his BCP case was his mother’s detailed testimony regarding her communications with the agency. And, I have no reason to doubt the credibility or veracity of her testimony. Although the agency representative at hearing testified that the agency’s case notes did not document those contacts, the absence of a case note does not, by itself, prove that someone did not contact an agency since it is possible that human or system error resulted in a case note not being properly entered.

However, as detailed above, the Division of Hearings and Appeals does not have the authority to review this matter and Petitioner’s appeal must therefore be dismissed.

Finally, I want to repeat the agency representative’s suggestion at hearing that the program Covering Wisconsin may be able to provide him with assistance in resolving this matter with his private insurance company. Covering Wisconsin can be reached at 608-261-1455 or 877-942-6837.

CONCLUSIONS OF LAW

The Division of Hearings and Appeals does not have jurisdiction to order that Petitioner’s private health plan refund his premiums nor does it have authority to order the agency to retroactively close his BadgerCare Plus case.

THEREFORE, it is

ORDERED

That Petitioner’s appeal is 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, 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.

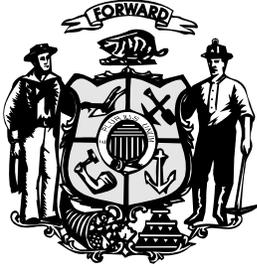
APPEAL TO COURT

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, 201 E. Washington Ave., **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 9th day of January, 2026

\s _____
Teresa A. Perez
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
5th Floor North
4822 Madison Yards Way
Madison, WI 53705-5400

Telephone: (608) 266-7709
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 9, 2026.

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