



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

BCB/142858

PRELIMINARY RECITALS

Pursuant to a petition filed August 2, 2012, under Wis. Stat., §49.45(5)(a), to review a decision by the Crawford County Dept. of Human Services in regard to Medical Assistance (MA), a hearing was held on October 19, 2012, by telephone. Hearings set for September 5 and September 27, 2012 were rescheduled at the petitioner's request.

The issue for determination is whether petitioner owes a BadgerCare Plus (BC+) premium for July, 2012.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Mindy Cheseboro
Crawford County Dept. of Human Services
225 N. Beaumont Rd., Suite 326
Prairie du Chien, WI 53821

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Crawford County. Her family received BC+ with a \$195.06 premium.
2. On Friday, June 29, 2012, petitioner contacted her county worker, Ms. Cheseboro, and asked her to close BC+ immediately. Ms. Cheseboro told her to call the Department call center. Petitioner then called the call center and was told that her worker had to close the case.
3. On Monday, July 2 petitioner again called Ms. Cheseboro, but she was out of the office.

4. Petitioner was able to connect with Ms. Cheseboro on July 3. Although Ms. Cheseboro insisted that the call center should have taken the action, she went ahead and closed the case, but at this point the case was not closed until August 1, 2012.
5. \$195.06 was deducted from petitioner's bank account for the July premium. Petitioner had not authorized the deduction. The bank later reimbursed the money.

DISCUSSION

BC+ is an expansion of the Wisconsin Medical Assistance program designed to provide coverage to children under 19 and their caretakers. Wis. Admin. Code, §DHS 103.03; BC+ Handbook, Appendix 1.1. Recipients must pay a monthly premium based upon income. If a recipient does not pay the monthly payment before the month after the end of the benefit month, the recipient may be ineligible for the program for six months. Admin. Code, §DHS 103.085(3); Handbook, App. 19.8.

The issue in this case is whether petitioner owes the July premium. The BC+ Handbook, App. 27 deals with change reporting, but it only discusses recipients' reporting requirements. It does not discuss how the agency should deal with a change report.

The Wisconsin Administrative Code, §DHS 102.04(3)(b) provides that an agency must review a case "promptly" when a change that might affect eligibility is reported. In general terms changes reported within a month are acted upon prior to the next month. Ms. Cheseboro did not point to any rule or policy concerning the effective date of a change requested late in the month before the intended effective date.

In this case petitioner reported on June 29 that she wanted BC+ to close immediately. At that point it probably was too late to stop the July BC+ from being implemented, but I cannot find a basis for imposing the premium on the family. There is nothing in the rules saying that a change, or a request to close the benefit, must be reported prior to a certain date in a month to affect the next month's benefit. I thus conclude that because petitioner requested on June 29 that BC+ be closed effective July 1, there cannot be a premium liability for July.

CONCLUSIONS OF LAW

Petitioner does not owe a July, 2012 BC+ premium because she requested that BC+ be closed prior July 1, 2012.

THEREFORE, it is

ORDERED

That the matter be remanded to the county with instructions to remove any liability for a July, 2012 BC+ premium from petitioner's case. The county shall do so within 10 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 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, 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 24th day of October, 2012

Brian C. Schneider
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 24, 2012.

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