



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

BCC/143026

PRELIMINARY RECITALS

Pursuant to a petition filed August 10, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Washington County Department of Social Services in regard to Medical Assistance (MA), a hearing was held on October 23, 2012, at West Bend, Wisconsin.

The issue for determination is whether the agency correctly terminated petitioner's BadgerCare Plus Core Plan benefits effective April 1, 2012 due to failing to complete a renewal.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Ken Benedum, ESS
Washington County Department of Social Services
333 E. Washington Street
Suite 3100
West Bend, WI 53095

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Washington County who was receiving BadgerCare Plus Core Plan benefits.

2. On February 13, 2012, the agency issued a letter to the petitioner informing him that he must complete a renewal application by March 31, 2012, or his benefits would end.
3. On March 19, 2012 the agency issued a negative Notice to the petitioner informing him that his BC Plus Core Plan eligibility would be discontinued effective April 1, 2012, because he had not completed a renewal application.

DISCUSSION

The petitioner was an ongoing BadgerCare Plus Core Plan recipient. This program provides MA benefits to adults without minor children who would not otherwise be eligible for MA. See *BadgerCare Plus Eligibility Handbook*, §43.1, available online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm>. BadgerCare Plus Core Plan rules require recipients to renew their benefits every year. The *Handbook*, §43.9, provides the following instructions for renewing:

All Core Plan members must complete a renewal by the last day of the 12-month certification period in order to stay enrolled without any lapse in coverage. In order to avoid any lapse in enrollment, a complete renewal must be submitted by the 5th of the month. If a renewal is submitted in the 13th month, the member can re-enroll as long as all requirements are met by the last day of the 13th month or 10 days after requesting verification and/or the fee payment whichever is later. When a renewal is submitted in the 13th month the member will have a gap in enrollment. The new enrollment date will be the next 1st or 15th of the month after all eligibility requirements are met and eligibility has been confirmed.

A complete renewal consists of:

- Providing updated information by phone, in person, or through ACCESS
- Processing fee (to be applied to the Core member's premiums if above 133% of the FPL at the time of renewal)
- Health needs assessment

If the renewal request is not received by the 5th of the renewal month there may be a delay and/or loss of coverage. If the request is received after the 5th but before the last day of the renewal month, the request is processed and all eligibility actions completed by the agency timely (within 10 calendar days), enrollment resumes on the first day of the next available enrollment period after confirmation.

Petitioner's agreed that he knew of the required renewal but that he had relied on someone from his HMO named Tom who petitioner thought had helped him complete his renewal on or about March 22, 2012. There was no collateral evidence to support a finding that a renewal was completed on that date, or by the end of March, as required. There was no evidence of a submitted renewal online, or in-person at the agency, or that any processing fee was paid. There was no evidence of any contact with the agency prior to the end of March to show that petitioner was attempting to renew but had difficulty. In sum, the greater weight of the evidence shows me that the renewal was not timely completed. Petitioner's equitable argument may have a place in circuit court, which was hear those types of issues; however, administrative law judges do not have powers of equity. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). The agency acted according to policy, and I must therefore uphold the action.

CONCLUSIONS OF LAW

The agency correctly terminated petitioner's BadgerCare Plus Core Plan benefits effective April 1, 2012 due to failing to complete a renewal.

THEREFORE, it is

ORDERED

The petition for review is hereby dismissed.

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 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, 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 Milwaukee,
Wisconsin, this 26th day of November, 2012

\sKelly Cochrane
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 November 26, 2012.

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