



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

BCS/143037

PRELIMINARY RECITALS

Pursuant to a petition filed August 14, 2012, under Wis. Stat., §49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA), a hearing was held on October 17, 2012, by telephone.

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: Belinda Bridges
Milwaukee Enrollment Services
1220 W. Vliet St.
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner received BC+ and Food Share. She was scheduled to complete a review by the end of May, 2012. She filed the necessary review form and conducted an interview on May 17. On that date the agency mailed petitioner a request for verification of her health insurance status.
3. The health insurance verification was filed and scanned on May 30, 2012. Nevertheless BC+ closed effective June 1, 2012 because nobody at the agency confirmed eligibility after the verification was filed.

4. Petitioner contacted the agency on July 27. The worker found that the case was still in “pending review” mode. The worker confirmed BC+ for June and July, and informed petitioner that she would have a \$92 premium for July (and then for August) due to a change in state law regarding premiums. Petitioner questioned the July premium because it was so late in the month, but the worker told her she would have to speak with a BC+ representative.
5. In a notice dated July 27, 2012, the agency informed petitioner that she was eligible for BC+ in June and July, that she had to pay a \$92 premium for July, and that August BC+ for petitioner was denied because she did not pay the July premium. BC+ has been closed for petitioner since August 1; her son remains eligible.

DISCUSSION

Petitioner’s BC+ case closed June 1, 2012. Although it appeared that it closed because verification was not received, petitioner states that she completed the review and the worker did not process it. I searched the electronic case file and found that petitioner had indeed filed the requested verification on May 30, so she was correct. The problem is the handling of the case when it was reopened on July 27.

Although petitioner should have been eligible for BC+ in June and July, in fact she was not because of agency error. Thus when the worker reopened the case on July 27 she could have treated the situation like a new application because BC+ had been closed for more than 30 days. The BC+ Handbook, Appendix 19.5, describes initial premium requirements:

Payment of the BC+ premium is a non-financial condition of eligibility. Initial premium payments must be made before eligibility is confirmed and the members are enrolled. The first month is free if no one in the BC+ group was eligible for BC+ or Medicaid in the previous month, and the BC+ AG has not received a free month in the previous 12 months.

In this case petitioner questioned the requirement that she pay a \$92 premium for July when the case was being confirmed on July 27. I find that petitioner’s question was warranted. I believe she was entitled to have the first month free as described above because the case had been closed in the prior month and there had been no free months in the past year.

I acknowledge that technically this was not a new application and the worker was correcting an error in processing petitioner’s May, 2012 review. However, rather than simply confirming June eligibility when petitioner questioned the premium, the worker could have asked if petitioner even wanted eligibility for that month, and if not, the worker could have treated July as the first month of a new application.

I will order the agency to remove the \$92 July premium from petitioner’s case and to remove any restrictive enrollment penalty caused by non-payment of the July premium. Because petitioner has been without BC+ since August 1, I will order the agency to process a new request for BC+ for petitioner, giving her the opportunity to choose the start date. She will have to pay a premium for the first month that she wants to have coverage and for continuing months thereafter.

CONCLUSIONS OF LAW

The agency erred by giving petitioner a \$92 BC+ premium for July, 2012 when it reopened the case on July 27, after it had been closed for more than 30 days.

THEREFORE, it is

ORDERED

That the matter be remanded to the agency with instructions to remove the liability for a \$92 July, 2012 BC+ premium from petitioner's case as well as a restrictive enrollment penalty for non-payment of the July premium, and to process a new request for BC+ eligibility for petitioner, allowing petitioner to choose the start date of coverage. Petitioner will have to pay a premium for any month for which she requests coverage. The agency shall take this action 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 22nd 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 22, 2012.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability