



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

BCC/143130

PRELIMINARY RECITALS

Pursuant to a petition filed August 14, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Enrollment Services Center in regard to Medical Assistance, a hearing was held on September 19, 2012, at Eau Claire, Wisconsin.

The issue for determination is whether Enrollment Services correctly ended the petitioner's BadgerCare Plus Core Plan benefits because he was incarcerated.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: No Appearance
Enrollment Services Center
PO Box 7190
Madison, WI 53707-7190

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Eau Claire County.
2. Enrollment Services notified the petitioner on January 2, 2012, that it was ending his BadgerCare Plus Core Plan benefits as of February 1, 2012, because he was incarcerated.

3. The petitioner was incarcerated from November 29, 2011, through August 1, 2012.
4. The petitioner appealed the agency's action on August 14, 2012.

DISCUSSION

The petitioner had been receiving medical assistance under the BadgerCare Plus Core Plan since 2009. He was imprisoned on November 29, 2011, and remained incarcerated until August 14, 2012. Enrollment Services became aware of this and notified him on January 2, 2012, that it was ending his BadgerCare Plus Core Plan benefits as of February 1, 2012, because Wisconsin law bars medical assistance payments "with respect to: ... 3. Care or services for an individual who is an inmate of public institution...." Wis. Stat. § 49.47(6)(c). He appealed this decision on August 14, 2012, because he believes it is unfair. I must base my decision on the law rather than his sense of fairness, and Wisconsin law clearly prohibits him from receiving medical assistance while incarcerated. Further, his appeal fails because he did not file it within 45 of the date his benefits ended as required by Wis. Admin. Code, § 3.05(3). I note, nevertheless, that although the agency properly ended his benefits, nothing prevents him from reapplying now that he is no longer incarcerated.

CONCLUSIONS OF LAW

1. There is no jurisdiction to consider the petitioner's appeal because it is untimely.
2. Enrollment Services properly ended the petitioner's BadgerCare Plus Core Plan benefits because he was incarcerated.

THEREFORE, it is

ORDERED

The petitioner's appeal is 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 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, Room 651, 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 September, 2012

Michael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals

c: Enrollment Services Center - email
Department of Health Services - email



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 24, 2012.

Enrollment Services Center
Division of Health Care Access and Accountability