



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCC/143632

PRELIMINARY RECITALS

Pursuant to a petition filed August 7, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regards to the discontinuance of Medical Assistance – BadgerCare Plus Core Plan benefits, a telephone hearing was held on September 26, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the county agency correctly discontinued the petitioner's two-person household's BC+ Core Plan eligibility because coverage was granted in error when the couple should have been placed on a waiting list at application.

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: Catherine May
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kenneth D. Duren, Assistant Administrator
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a 49 year-old resident of Milwaukee County. He lives with his wife, [REDACTED] who is 50 years old. There are no other household members and no minor children in their care.
2. The petitioner and his wife applied for BadgerCare Plus Core Plan benefits on June 6, 2012.

3. The county agency worker processing the couple's application erroneously checked a box in the CARES processing system directing the couple's application to be processed immediately rather than checking a box to place them on a waiting list for BadgerCare Plus Core Plan.
4. As a consequence of the error described in Finding of Fact #3, above, the Department certified the petitioner and his wife as eligible for BC+ Core Plan benefits retroactive to June 15, 2012.
5. On or about August 6, 2012, the county agency discovered the processing error in the petitioner's case; ascertained that eligibility had been granted to the couple before other persons on the waiting list as a consequence of the worker processing error; and issued a Notice to the petitioner and his wife informing them that their BC+ Core Plan eligibility would terminate effective September 1, 2012, because "You did not ask for this benefit."
6. On August 7, 2012, the petitioner filed an appeal contesting the agency action; benefits were continued pending the hearing decision.

DISCUSSION

The evidence in this record establishes that at the time the petitioner applied for BC+ Core Plan, that there was a waiting list for new applicants found otherwise eligible due to a lack of funding for all such eligible persons, and the agency erroneously failed to put the couple on the waiting list due to a processing error. After discovery, the agency discontinued eligibility over two months after granting it, with timely and advance written notice of the discontinuance.

Given the unique nature of the reason for termination, the notice was a bit confusing to the petitioner, but he correctly appealed it immediately anyway.

Per the Department's written policy, applications for BC+ Core Plan that are received after 5:00 P.M. on October 9, 2009, will not be processed. Rather, such applicants are to be placed on a waitlist because as of October 9, 2009, the total number of applications received exceed the amount of funding available. See, *BadgerCare+ Handbook* § 43.12 (Effective date, 10/0/09; 10/1/10, and continuing at present). The ESC correctly placed the couple on the wait list under this policy without further processing when the error was discovered.

I cannot restore their benefits. Two wrongs don't make a right. If the agency had processed the original application correctly, then they should have been waitlisted immediately. Instead, due to agency error, both received medical insurance coverage for 2 ½ months that they otherwise would not have received if processed correctly. I cannot reverse this discontinuance under these facts. The agency action is affirmed.

CONCLUSIONS OF LAW

That the county agency correctly reversed a processing error and de-certified the petitioner and his wife from BadgerCare Plus Core Plan effective September 1, 2012.

THEREFORE, it is

ORDERED

That the petition for review herein be, and the same hereby 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 27th day of September, 2012

Kenneth D. Duren, Assistant Administrator
Administrative Law Judge
Division of Hearings and Appeals

c: Milwaukee Enrollment Services - email
Department of Health Services – email



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The preceding decision was sent to the following parties on September 27, 2012.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability