



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION ON REHEARING

BCC/143772

PRELIMINARY RECITALS

Pursuant to a petition filed September 12, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on November 27, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether a recipient can have good cause for failing to pay the \$60 BadgerCare Plus (BC+) Core Plan processing fee.

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: Alma Lezama
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner received BC+ Core Plan MA. He was due for a renewal by the end of June 2012. By a notice dated May 21, 2012, the agency informed petitioner that benefits would end July 1, 2012 if he did not complete the renewal.

3. Petitioner completed the interview/information updating portion of the renewal process on June 22, 2012. The worker informed petitioner he needed to pay his processing fee by the end of June.
4. On July 20, 2012 the agency made contact again with petitioner and inquired about the Coe Plan payment. Petitioner indicated that he had mailed in the payment and would look for the receipt for the money order.
5. During a September update on petitioner's case, he confirmed he did not pay the fee. At some point the agency realized it did not send out a written request for the Core Plan fee to the petitioner. Therefore, on September 19, 2012 the agency did send out a written request for the Core Plan fee to the petitioner.
6. Petitioner did not pay the processing fee by the time of the instant hearing.

DISCUSSION

An MA recipient must complete periodic reviews to continue eligibility. Wis. Adm. Code, §DHS 102.04(3); BC+ Handbook, §26.1, available online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm>. Whenever a new application or renewal is processed, the BC+ Core Plan applicant/recipient must pay a \$60 processing fee. See Handbook, §43.9 concerning renewals. Failure to pay the fee results in the application/renewal being denied because the processing is incomplete. Handbook, §43.4.2.

There is no good cause exception in the policy for failing to pay the enrollment fee. A homeless person or tribal member can request that the fee be waived, but petitioner falls into neither category. See Handbook, §43.4.2.1. Petitioner was clearly aware of the payment requirement throughout the summer. The agency even gave him longer to pay once they realized they submitted nothing in writing to him about the fee payment. He did not do so, and thus the agency correctly refused to process the renewal. I therefore must conclude that the agency correctly discontinued the Core Plan for petitioner.

I add, assuming petitioner finds this decision unfair, that it is the long-standing position of the Division of Hearings & Appeals that the Division's hearing examiners lack the authority to render a decision on equitable arguments. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. Therefore, while I understand his argument that he could not afford the \$60 payment, I cannot change the outcome here based on any kind of fairness argument.

CONCLUSIONS OF LAW

The agency correctly discontinued the Core Plan for petitioner because he did not pay the renewal processing fee.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby dismissed.

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 6th day of December, 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 December 6, 2012.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability