



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCS/144101

PRELIMINARY RECITALS

Pursuant to a petition filed September 27, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Marathon County Department of Social Services in regard to Medical Assistance, a hearing was held on November 02, 2012, at Wausau, Wisconsin.

The issue for determination is whether the Department erred in its discontinuance of BadgerCare Plus benefits effective September 1, 2012.

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: Kris Weden

Marathon County Department of Social Services
400 E. Thomas Street
Wausau, WI 54403

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Marathon County.
2. Petitioner was enrolled in the BC+ program.
3. Petitioner was late with her premium payment due in August 2012.

4. On August 17, the Department sent a notice to petitioner informing her that her BC+ premium was not paid and that her enrollment would be discontinued effective September 1, 2012 due to non-payment of the premium if the premium is not received by the end of August.
5. On August 28, 2012, the Department received the premium payment due in August.
6. Apparently, the Department then looked more closely at petitioner's eligibility and noticed an income discrepancy.
7. On August 29, 2012, the Department sent a Notice of Proof Needed to petitioner requesting income verification.
8. Petitioner submitted the requested documentation and the verification documents indicated that she is over the income limit for the program.
9. On October 1, 2012, the Department sent a notice to petitioner informing her that effective October 1, 2012 she would not be eligible for BC+ due to excessive income.

DISCUSSION

At the time of the hearing, petitioner did not dispute the Department's calculation of income stating "if I am over the income then I am." But, petitioner argued that she did not receive appropriate notice of the Department's termination of enrollment from BC+. She explained that while she was late with the premium payment for September, that she did ultimately pay it. But, she argues, the Department terminated her effective September 1, 2012 and never reinstated her eligibility for the month of September while the Department was trying to determine her eligibility based on income. The Department ultimately determined petitioner was over income and ineligible. The Department sent notice on October 1 indicating termination as of that date.

I agree with petitioner. She paid the September premium. Petitioner thereby cured the problem that would have properly caused the Department to stop coverage for September. The Department explained that this would usually result in reopening of the case without any lapse in coverage. The Department explained that at that time it was already looking at the wage discrepancy and seeking verification. It did not reopen the case due to its determination that she was ineligible. But, the Department did not send notice of termination of this basis until October 1 with an effective date of October 1. The Department cannot simply terminate a person's benefits without notice until a month later. That is what happened here. Since she paid the premium for September, and because no notice was sent until October 1 indicating any other basis for termination, petitioner should get retroactive benefits for the month of September and the effective date of the termination should be October 1, 2012.

CONCLUSIONS OF LAW

The Department erred in its termination of enrollment from BC+ effective September 1, 2012.

THEREFORE, it is

ORDERED

That this matter is remanded to the Department and its county agent with instructions to reverse the September 1, 2012 BC+ termination and grant retroactive benefits for the month of September. This action must be completed within 10 days.

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 Madison,
Wisconsin, this 11th day of December, 2012

\sJohn P. Tedesco
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 11, 2012.

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