



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

BCC/144142

PRELIMINARY RECITALS

Pursuant to a petition filed September 28, 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 via telephone on November 13, 2012.

The issue for determination is it was correct to discontinue petitioner's BadgerCare Plus Core Medical Assistance ["MA Core"] effective October 1, 2012.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Petitioner's Representative:

Attorney Ryan Farrell
6337 West Washington St.
Suite 3230
Milwaukee, WI 53214

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Belinda Bridges, Income Maintenance ["IM"] Advanced
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

OTHER PERSON PRESENT:

Mary F. Hartung, IM Advanced

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner applied for MA Core in 2009, was determined to be eligible, and received MA Core effective August 1, 2009; her 1st certification period ran from August 1, 2009 to July 31, 2010.
3. Petitioner was recertified for MA Core in 2010; her 2nd certification period ran from August 1, 2010 to July 31, 2011.
4. Petitioner became eligible for BadgerCare Standard Plan Medical Assistance ["BCSP"] effective November 1, 2010; petitioner's eligibility for MA Core was automatically discontinued effective November 30, 2010.
5. Effective February 29, 2012 petitioner's eligibility for BCSP was discontinued because she was no longer eligible for BCSP.
6. Effective March 1, 2012 petitioner's eligibility for MA Core was restored and she again received MA Core benefits.
7. Milwaukee Enrollment Services ["MiLES"] determined that petitioner was incorrectly made eligible for MA Core effective March 1, 2012; MiLES sent a notice to petitioner dated September 10, 2012 and entitled *About Your Benefits*; that notice informed petitioner that her MA Core would end October 1, 2012 because: "You do not meet the rules for this benefit."

DISCUSSION

If a disenrolled MA Core member's eligibility for BCSP ends within 12 months after the MA Core certification period ended, he or she can reapply for the MA Core and bypass the waitlist as long as all the steps (including payment of the \$60 fee) are completed and he or she continues to meet the non-financial requirements for MA Core. *BadgerCare + Eligibility Handbook* ["BC+ Handbook"] 43.11.1;¹ See also, Example 4.

MiLES does not deny petitioner has completed all the necessary steps (including payment of the \$60 fee) and continues to meet the non-financial requirements for MA Core. However, MiLES argues that petitioner was incorrectly made eligible for MA Core on March 1, 2012 because petitioner's BCSP did not end within 12 months after her MA Core certification period ended. MiLES appears to be arguing that petitioner's MA Core certification period ended on November 30, 2010 when her MA Core was automatically discontinued. However, this is clearly not correct. Petitioner's 2nd MA Core certification period ran from August 1, 2010 to July 31, 2011 (as stated by MiLES in its *Fair Hearing Overview*). Thus, 12 months after petitioner's MA Core certification period ended would be July 31, 2012. Petitioner's BCSP ended on February 29, 2012 -- which is within 12 months after her MA Core certification period ended.

MiLES also argues that "the bypass rules for the Core Plan Waitlist has [sic] been discontinued." MiLES cites *BEPS/DFS Operations Memo* No. 11-11, Date 03/18/2011 ("BadgerCare Plus Basic Plan Enrollment Changes"). However, by its own terms that Operations Memo applies to the BadgerCare Plus Basic Plan -- not to BCPS.

¹ MiLES cites to BC+ Handbook 43.13. BC+ Handbook 43.13 no longer exists. However, BC+ Handbook 43.13 is identical in all relevant respects to the newly released BC+ Handbook 43.11.1 which is cited here.

CONCLUSIONS OF LAW

For the reasons discussed above, petitioner has been continuously eligible for MA Core since March 1, 2012 and it was not correct to discontinue petitioner's MA Core effective October 1, 2012.

THEREFORE, it is

ORDERED

That this matter be REMANDED to MiLES, that petitioner has been continuously eligible for MA Core since March 1, 2012, that MiLES not discontinue petitioner's MA Co re effective October 1, 2012, and that, with 10 days of the date of this Decision, MiLES issue all MA Core benefits for which petitioner is otherwise eligible, and which have not already been issued, retroactive to March 1, 2012.

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 16th day of November, 2012

/sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



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 November 16, 2012.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability
RyanF@drwi.org