



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

BCC/145187

PRELIMINARY RECITALS

Pursuant to a petition filed November 13, 2012, under Wis. Stat., §49.45(5)(a), to review a decision by the Milwaukee Enrollment Services to discontinue Medical Assistance (MA), a hearing was held on December 12, 2012, by telephone.

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.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Sharon Thacker
Milwaukee Enrollment Services
1220 W. Vliet St.
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner received MA through the BC+ Core Plan until the action at issue in this case. She had a review in May, 2012. During the review she was told that she had to pay the \$60 Core Plan processing fee by June 4. She asked if she could have more time to pay because she did not have the money at that time.

3. On May 29, 2012, the agency sent petitioner a notice informing her that BC+ Core Plan MA would end July 1, 2012 because it was not able to process the re-application without the fee.
4. In September, 2012, petitioner was told by a person at her doctor's office that she no longer was eligible for the Core Plan. She then paid the \$60 fee on September 17 but the agency refused to process it because her case was closed.

DISCUSSION

An MA recipient must complete periodic reviews to continue eligibility. Wis. Admin. Code, §DHS 102.04(3); BC+ Handbook, Appendix 26.1. Whenever a new application or renewal is processed the BC+ Core Plan applicant/recipient must pay a \$60 processing fee. See Handbook, App. 43.9 concerning renewals. Failure to pay the fee results in the application/renewal being denied because the processing is incomplete. Handbook, App. 43.4.2. There is no good cause exception in the policy for failing to pay the enrollment fee.

Petitioner was given until June 4, 2012 to pay the processing fee, but in reality she had until June 30 because the fee will be accepted while the Plan is still open. Petitioner did not pay the fee, and thus her eligibility ended. Petitioner testified that she thought she had unlimited time to pay the fee, but clearly the May 29 notice should have alerted her that there was some time limitation.

Another problem for petitioner is that her appeal of the closure is untimely. An appeal of a negative action concerning MA must be filed within 45 days of the action. Wis. Stat. §49.45(5)(a); Income Maintenance Manual, §3.3.2. Language concerning the right to appeal and the time limit is included as page two on all department notices. Even if petitioner was legitimately confused about the length of time allowed to pay the fee, she would have had to appeal by August 15, 2012 to have the issue reviewed.

In October, 2009, the Department ceased taking new Core Plan applications because of insufficient funding. See BC+ Handbook, Appendix 43.10. The cap includes applications made by individuals who formerly were eligible for the Core Plan. As of this date the enrollment cap remains in place, and thus the agency correctly declined to process petitioner's new request for the Core Plan.

CONCLUSIONS OF LAW

1. Petitioner appeal of the discontinuance of her BC+ Core Plan was untimely.
2. The agency correctly closed the Core Plan because petitioner did not pay her re-enrollment processing fee timely.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 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 14th day of December, 2012

\sBrian C. Schneider
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 14, 2012.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability