



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

BCS/143528

PRELIMINARY RECITALS

Pursuant to a petition filed August 30, 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 December 04, 2012, at Milwaukee, Wisconsin.

The issues for determination are:

1. Whether the agency properly determined the Petitioner's eligibility and premium for August, 2012 and whether the agency properly placed the Petitioner in restrictive re-enrollment for failure to pay the August, 2012 BCP premium;
2. Whether the agency properly determined the Petitioner's premiums for September and October, 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: Katherine May

Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On July 25, 2012, the agency issued a Notice of Action and Proof Needed to the Petitioner informing her that she needed to sign her BCP application and pay a BCP premium by August 3, 2012. The Notice did not contain any information about the amount of the Petitioner's premium. The Notice also required the Petitioner to submit employment verifications for Planned Parenthood and Anew Health Care by August 3, 2012. The notice did not inform the Petitioner of her eligibility for BCP.
3. On August 3, 2012, the Petitioner's online renewal for BadgerCare Plus was processed by the agency and pended for verification of employment.
4. On August 6, 2012, the agency issued a Notice of Action and Proof Needed to the Petitioner informing her that she must pay a BCP by August 13, 2012. The Notice did not contain any information about the amount of the premium. The Notice also requested proof of employment at Planned Parenthood and Anew Health Care by August 13, 2012. The Notice did not inform the Petitioner of her eligibility for BCP.
5. On August 9, 2012, the agency received an employment verification from Anew Health Care and pay statements from Planned Parenthood. The Anew verification indicates the Petitioner's weekly hours as 17.5 and rate of pay is \$10.15/hour. The weekly wage from Anew is \$177.63. The Planned Parenthood pay statements indicate the Petitioner had gross earned income of \$1,767.19 for the previous 30 days. Her gross monthly income is \$2,477 based on this information.
6. On August 20, 2012, the agency issued a Notice of Decision to the Petitioner informing her that as of September 1, 2012, the Petitioner was eligible for BCP with a monthly premium of \$183.
7. On August 24, 2012, the agency issued a Notice of Decision to the Petitioner informing her that as of September 1, 2012, she was eligible for BCP with a monthly premium of \$79 based on gross monthly income of \$2,243.80. The agency used incorrect income figures from Planned Parenthood in determining gross monthly income and the premium.
8. On August 28, 2012, agency personnel notified the Petitioner via telephone that she owed a \$79 premium for the month of August, 2012.
9. On August 30, 2012, the Petitioner filed an appeal with the Division of Hearings and Appeals.
10. On September 5, 2012, the agency updated the Petitioner's income to reflect gross monthly income of \$2,477. Based on this income, effective October 1, 2012, the Petitioner's monthly BCP premium was increased \$99.
11. On September 13, 2012, the agency received an Employer Health Insurance Verification for the Petitioner from Planned Parenthood.
12. On October 12, 2012, the agency placed the Petitioner in restrictive re-enrollment for failure to pay the \$79 August premium.

DISCUSSION

A BCP enrollee for whom a premium is owed for the current month who leaves BC+ by quitting or not paying a premium may be subject to a restrictive re-enrollment period wherein the individual is not eligible to enroll in BC+ for a certain number of months from the termination date unless they meet a good cause. "Good cause" is defined as "circumstances beyond a person's control which keep the person from following program requirements or specific eligibility conditions ." Generally, for adult BadgerCare Plus members aged 19 and older, the RRP is 12 months. BCP Handbook § 19.11.

The agency should not place a BCP enrollee in restrictive reenrollment if a good cause reason for non-payment of a premium is present. Those reasons include:

1. Problems with the financial institution.
2. CARES Client Assistance for Re-employment & Economic Support. `This system supports the Income Maintenance operations for DHFS and DWD. CARES is used to determine eligibility, issue benefits, track premium payments and manages support for BC+, EBD Medicaid, W-2, Child Care and Work Programs problem.
3. Local agency problem.
4. Wage withholding problem.
5. Fair hearing decision.

If there is a good cause reason for non-payment, the member must still pay any arrears before eligibility will begin again. BCP Handbook § 19.8.3.

In this case, the agency never provided any written notice to the Petitioner informing her of her eligibility for and amount of premium due for August 1, 2012. The only evidence presented by the agency indicates the Petitioner's eligibility and premium effective September 1, 2012. The Petitioner testified that the only way she knew she was eligible for August, 2012 was a result of a phone call to the agency on August 28, 2012 in which she was notified that she was eligible. At that time, she was also told that she owed a premium of \$79 for August, 2012. The Petitioner argues that she should not be responsible to pay a premium for August, 2012 when she was never provided notice of eligibility or the amount of her premium. I can't tell from the evidence whether the agency made a determination of eligibility for August and if so what the premium should be. Because the agency failed to provide proper notice to the Petitioner of her eligibility and premium for August, 2012, the agency should not have placed the Petitioner in a restrictive re-enrollment status for non-payment of the August premium and cannot require payment of a premium for August.

With regard to the amount of the premium, I reviewed the evidence submitted by the agency. For the September, 2012 premium, the agency inaccurately budgeted income from Planned Parenthood based on the pay statements submitted by the Petitioner. Specifically, the pay statements for the 30 days prior to the Petitioner's application show gross earned income of \$1,767.19. However the agency budgeted gross earned income from Planned Parenthood of \$1,533.28 (see Exhibit 8, Notice of Decision dated 8/24/12). There was no evidence as to why the agency budgeted this amount. The agency correctly budgeted income from Anew as \$177.63/week or \$710.52/month. When the agency updated the Petitioner's income on September 5, 2012, they correctly budgeted monthly income of \$2,477.72 and correctly determined the Petitioner's monthly premium is \$99/month.

The Petitioner has paid no premiums due to filing a fair hearing request. The Petitioner will be required to pay premiums of \$99/month beginning September 1, 2012 in order to become and remain eligible for BCP benefits.

CONCLUSIONS OF LAW

1. The agency did not make proper determinations or issue proper notices regarding Petitioner's eligibility and premium for August, 2012. The agency should not have placed the Petitioner in restrictive re-enrollment for non-payment of an August, 2012 premium.

2. The Petitioner is eligible for BCP benefits from September 1, 2012 forward with a monthly premium of \$99.

THEREFORE, it is

ORDERED

That this matter is remanded to the agency to take the appropriate administrative steps to lift the restrictive re-enrollment and backdate Petitioner's eligibility for BCP benefits to September 1, 2012 . The agency shall notify the Petitioner of the amount of arrears owed from September 1, 2012 to the present. This notification shall be accomplished within 10 days of the date of this decision. Upon timely payment of the arrearage by the Petitioner, the agency shall backdate Petitioner's eligibility to September 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 Milwaukee,
Wisconsin, this 4th day of January, 2013

\sDebra Bursinger
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 January 4, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability