



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCS/143797

PRELIMINARY RECITALS

Pursuant to a petition filed September 12, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Eau Claire County Department of Human Services in regard to Medical Assistance, a hearing was held on December 19, 2012, at Eau Claire, Wisconsin. His appeal had been dismissed on November 2, 2012, because he failed to appear for a hearing scheduled for October 24, 2012. His request for a new hearing was granted on December 10, 2012.

The issue for determination is whether the county agency correctly ended the petitioner's BadgerCare Plus benefits and restricted his ability to reenroll because he failed without good cause to pay his premium on time.

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: Kim Carlino

Eau Claire County Department of Human Services
721 Oxford Avenue
PO Box 840
Eau Claire, WI 54702-0840

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Eau Claire County.

2. The petitioner was an ongoing recipient of BadgerCare Plus medical assistance benefits.
3. The petitioner had a premium due for the BadgerCare Plus program on July 10, 2012. He had not paid this premium when he called the agency on September 5, 2012, requesting that he be allowed to do so.
4. The county agency notified the petitioner on June 18, 2012, that his BadgerCare Plus benefits would end as of July 1, 2012, because he had not paid his premium. It again notified him on July 18, 2012, that his benefits would end as of August 1, 2012, because he had not paid his premium.

DISCUSSION

The petitioner had been receiving medical assistance under BadgerCare Plus, which covers children under 19 and their parents. Wis. Stat. § 49.665. The county agency ended his benefits as of July 31, 2012, because he failed to pay his premium for that month of coverage. The program's rules require recipients to pay a premium by "the 10th of the month prior to the month for which the premium is required." Wis. Admin. Code § DHS 103.085(1)(d)2. If a person fails to pay the premium by the end of the month for which it is due, benefits end on the last day of that month. Wis. Admin. Code § DHS 103.085(1)(d)3. In addition, those whose benefits end because they did not pay a premium cannot reenroll for 12 months (the period is six months for their children) unless they did not pay because of circumstances beyond their control and "all past due premiums have been paid in full." Wis. Admin. Code, § DHS 103.085(3)(b)1; *BadgerCare Plus Handbook*, 19.11. Circumstances beyond the persons control include:

- a. A problem with an electronic funds transfer from a bank account to the BadgerCare program.
- b. A problem with an employer's wage withholding.
- c. An administrative error in processing the premium.
- d. Any other circumstance affecting payment of the premium which the department determines is beyond the group's control, but not including insufficient funds.

Wis. Admin. Code, § DHS 103.085(3)(b)1.

If a person pays all of the premium due for the entire family by the end of the month after it is due, the restrictive reenrollment is lifted. *BadgerCare Plus Handbook*, 19.8.1

The petitioner contends that his premiums had been coming out of his bank account automatically every month and that for some reason his bank stopped paying the premium. He testified that he did not pay the premium because he was unaware that this happened. Automatic payments from a bank can be confusing and stop for reasons incomprehensible to those outside the industry. But the petitioner had plenty of warning that something was amiss in the automatic payment of his premium. The agency sent him notices in both June and July 2012 warning him that he had not paid his premium and that his benefits would stop and he would not be able to reenroll if he failed to pay the premium by the end of the month. Despite this, he did not contact the agency to make a payment until September 5, 2012. Furthermore, even at the hearing—six months after the first of those two notices—he did not know why the premium did not come out of his account, which indicates that he never called a bank representative to determine the cause of the non-payment. He had until the end of August to pay his premium and regain his eligibility. Whatever circumstances beyond his control caused him to initially fail to pay the premium no longer applied by then. Based upon these facts, I find that his failure to pay his premium was not due to circumstances beyond his control. Therefore, the agency correctly ended his BadgerCare Plus benefits and restricted his right to reenroll.

CONCLUSIONS OF LAW

The county agency correctly ended the petitioner's BadgerCare Plus benefits and restricted his right to reenroll because circumstances beyond his control did not cause him to fail to pay his premium for July 2012 benefits by the end of August 2012.

THEREFORE, it is

ORDERED

The petitioner's appeal is 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 7th day of January, 2013

\sMichael D. O'Brien
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 7, 2013.

Eau Claire County Department of Human Services
Division of Health Care Access and Accountability