



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

**REHEARING
DECISION**

BCC/144536

PRELIMINARY RECITALS

Pursuant to a petition filed October 15, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Dane County Department of Human Services ["County"] in regard to Medical Assistance ["MA"], a Hearing was scheduled for November 19, 2012. Petitioner failed to appear for that November 19th Hearing. Accordingly, a *Decision* dated November 21, 2012 was issued dismissing petitioner's petition as abandoned.

On December 18, 2012 the Division of Hearings and Appeals ["DHA"] received, via U.S. Mail that was not postmarked, an undated letter from petitioner. That letter was a request for a rehearing. By a Rehearing Request Order dated December 21, 2012 petitioner's request for a rehearing was granted. A rehearing was held on January 30, 2012 at the County offices on Aberg Avenue in Madison, Wisconsin.

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

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: JoAnne Jaehnke, ES Supervisor
Dane County Department of Human Services

1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

OTHER PERSON PRESENT:

■■■■■■, petitioner’s partner

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ■■■■■■) is a resident of Dane County.
2. Petitioner received a letter notice dated April 18, 2012 and entitled *About Your Benefits*; that notice informed her that her enrollment in MA Core would end on May 1, 2012 because “[y]our renewal has not been completed.”
3. Petitioner paid the processing fee via check and received a May 2, 2012 confirmation e-mail from MA Core stating: “This is to confirm your payment submitted on May -02-2012 for application processing for the BC+ Core Plan.” Exhibit #2.
4. Petitioner was sent a notice dated May 22, 2012 and entitled *About Your Benefits*; that notice informed her that “[y]our [MA] application was denied” because “ you did not pay the nonrefundable application processing fee.”; for unknown reasons petitioner never received that May 22nd notice. Exhibit #4.
5. The check petitioner used to pay the processing fee was rejected due to insufficient funds; petitioner was notified of this by a letter dated June 19, 2012 which also stated: “If you pay before 6/30/12 you will continue to be eligible got [sic] the core plan. If you do not you will be ineligible for 1 year and then would be on the wait list. ” Exhibit #5.
6. Petitioner paid the processing fee by a money order dated June 27, 2012 that was received by MA Core on July 2, 2012 via U.S. Mail postmarked June 27, 2012. Exhibit #3.
7. The County discontinued petitioner’s MA Core because petitioner’s processing fee was not received by June 30, 2012.

DISCUSSION

Completion of a periodic case review is a condition of receiving MA Core. 42 C.F.R. § 435.916(a) (2011); Wis. Stat. § 49.45(23) (2009-10); Wis. Admin. Code §§ DHS 101.03(95), 102.04(3)(c), 103.01, & 103.10 (December 2008); *BadgerCare + Eligibility Handbook* [“BCEH”], 43.9.

All Core Plan members must complete a renewal by the last day of the 12-month certification period in order to stay enrolled without any lapse in coverage. In order to avoid any lapse in enrollment, a complete renewal must be submitted by the 5th of the month. If a renewal is submitted in the 13th month, the member can re-enroll as long as all requirements are met by the last day of the 13th month or 10 days after requesting verification and/or the fee payment whichever is later. When a renewal is submitted in the 13th month the member will have a gap in enrollment. The new enrollment date will be the next 1st or 15th of the month after all eligibility requirements are met and eligibility has been confirmed.

A complete renewal consists of:

- Providing updated information by phone, in person, or through ACCESS;
- Processing fee (to be applied to the Core member's premiums if above 133% of the FPL at the time of renewal);
- Health needs assessment.

BCEH 3.9.

In this case, the County discontinued petitioner's MA Core because petitioner's processing fee was not received by June 30, 2012. However, the rule, as reflected in the state policy recited above, is that the processing fee must be submitted by the applicable deadline. Petitioner submitted her processing fee on June 27, 2012 (the date of the postmark) -- this is prior to the June 30, 2012 deadline. Therefore, it was not correct to discontinue petitioner's MA Core effective May 1, 2012.

Finally, it is noted that petitioner did not request a Hearing until October 15, 2012. Thus, it might be argued that the Division of Hearings and Appeals ["DHA"] lacks jurisdiction in this matter because petitioner did not request a Hearing in a timely manner. However, jurisdiction in such a case is not lost if petitioner never received proper notice of the action being appealed. Petitioner received the June 19, 2012 letter informing her that she must pay the processing fee before June 30, 2012 -- which she did. No notice was ever sent to petitioner informing her that her MA Core would close because she failed to pay the processing fee by June 30, 2012.

CONCLUSIONS OF LAW

For the reasons discussed above, it was not correct to discontinue petitioner's MA Core effective May 1, 2012.

NOW, THEREFORE, it is

ORDERED

That this matter be REMANDED to the County, that the County not discontinue petitioner's MA Core effective May 1, 2012, and that, within 10 days of the date of this Decision, the County issue all MA Core benefits for which petitioner is otherwise eligible retroactive to May 1, 2012.

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
February, 2013

\sSean P. Maloney
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 February 11, 2013.

Dane County Department of Human Services
Division of Health Care Access and Accountability