



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCC/146359

PRELIMINARY RECITALS

Pursuant to a petition filed January 2, 2013, under Wis. Stat., §49.45(5)(a), to review a decision by the Marathon County Dept. of Social Services to discontinue Medical Assistance (MA), a hearing was held on February 12, 2013, by telephone.

The issue for determination is whether the county correctly closed BadgerCare Plus (BC+) Core Plan MA because petitioner did not pay his processing fee.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Maiku Yang

Marathon County Dept. of Social Services
400 E. Thomas Street
Wausau, WI 54403

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider

Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Marathon County.
2. Petitioner received BC+ Core Plan MA until the county action. He was scheduled for an annual reassessment to be completed by the end of December, 2012. He filed his renewal application, and on December 3 the county sent him a notice to pay the \$60 processing fee. The county sent a second notice to pay the processing fee on December 13.

3. Petitioner did not pay the processing fee. He was told that if he paid it in January the case still could be reopened, but again he did not pay the fee.
4. By a notice dated December 19, 2012, the county informed petitioner that BC+ Core Plan MA would end January 1, 2013 because he did not complete his renewal. Petitioner appealed the termination by a letter postmarked January 2, 2013.

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. A homeless person can request that the fee be waived, but not after missing the payment date.

The result, therefore, is that the county had no choice but to close petitioner's BC+ Core Plan MA because he did not pay the \$60 filing fee. As of the date of the hearing he still had not done so, and thus the case must remain closed.

Petitioner also raised the issue of continued benefits pending the appeal. The Division of Hearings and Appeals refused to continue benefits, and the refusal was correct. Federal and state law provide that benefits shall be continued if the person requests a hearing before the effective date of the action. 42 C.F.R. §431.23(a); Wis. Admin. Code, §HA 3.05(5). A hearing request is considered filed on the date the request is received by the Division of Hearings and Appeals or the postmark date, whichever is earlier. Wis. Admin. Code, §3.05(3)(c). Petitioner's appeal was postmarked January 2, 2013, and to receive continued benefits it had to be postmarked no later than December 31, 2012. Although petitioner testified that he mailed the letter on December 28, the law does not provide for an exception to the filing date. Even considering that January 1 is a legal holiday, the postmark had to be *before* January 1 for benefits to continue.

CONCLUSIONS OF LAW

1. The county correctly closed petitioner's BC+ Core Plan MA because he did not pay the required processing fee to complete his renewal.
2. Petitioner was not entitled to continued benefits pending appeal because his appeal was postmarked after the effective date of the action.

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 February, 2013

\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 February 14, 2013.

Marathon County Department of Social Services
Division of Health Care Access and Accountability