



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCC/146433

PRELIMINARY RECITALS

Pursuant to a petition filed January 08, 2013, 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 February 07, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Department correctly placed petitioner into restrictive re-enrollment following petitioner's failure to pay premiums as assessed.

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

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Prior to November 1, 2012, the petitioner had an open BC+ case.
3. On September 9, 19, respondent sent petitioner a notice indicating that petitioner was required to pay a monthly premium in the amount of \$79.00 to receive healthcare benefits. The premium

payment responsibility commences as of October 1, 2012. The notice specified that the failure to pay the premiums would result in termination of BC+ benefits, and that petitioner may not be able to re-enroll for a period of 12 months. Exhibit 3.

4. On October 19, 2012, the Department issued written notice to the petitioner, advising that her premium had not been paid and that her BC+ would end November 1, 2012. It also advised that if the premium was not paid by the end of November, a restrictive re-enrollment period may be imposed. *Id.*
5. On November 13, 2012, the Department issued written notice to the petitioner advising that she was not enrolled in BC+ at this time, and that she would not be allowed to re-enroll due to imposition of a 12-month restrictive re-enrollment period. *Id.*
6. Petitioner filed a request for rehearing on January 8, 2013. Exhibit 1.

DISCUSSION

BadgerCare Plus is a Wisconsin variant of MA for families with minor children, and pregnant women. Wis. Stat. §49.471; *BCP Eligibility Handbook (BCPEH)*, § 1.1, available online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm>.

The petitioner does not contest the respondent's position that a premium was required under BC+ rules. Nor does she contest receipt of notice of the amount of the premium. Generally speaking, in petitioner's case, BC+ financial eligibility exists as follows:

- (1) if household gross income is at or below 133% FPL, the parent is eligible without a premium,
- (2) if household gross income is above 133% FPL but not over 200% FPL, the parent is eligible with a premium, or
- (3) if household gross income is above 200% FPL, the parent is not BC+ eligible.

BCPEH, §19.1 (7/1/12).

When a household with income above 133% FPL does not timely make a premium payment, enrollment in BC+ ceases, and the adults may be barred from re-enrolling for 12 months. The initial payment was due by October 1, and if it had been made, the subsequent months' payments would have been due by the 10th of each benefit month. *BCPEH*, § 19.6. The policy on the restrictive re-enrollment is as follows:

A member 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. A restrictive re-enrollment period (RRP) means the member cannot re-enroll in BC+ for a certain number of months from the termination date while their income remains high enough to owe a premium, unless they meet a good cause exemption. For adult BadgerCare Plus members aged 19 and older, the RRP is 12 months; for children under age 19, the RRP lasts 6 months.

...

19.11.4 Good Cause for Quitting BC+

Do not apply the RRP when an individual who owes a premium for quitting BC+ in the current month voluntarily quits BC+ for these reasons:

1. No person is non-financially eligible for BC+.
2. The individual moved out of Wisconsin.
3. Health insurance became available for the individual.
4. The individual is now eligible without a premium.
5. The individual has an increase in income that makes them BC+ ineligible.

BCPEH, §§19.11, 19.11.4.

The petitioner argues that she simply could not afford the premium when it came due. She thought that she could reapply when she had the funds since the language regarding the restrictive re-enrollment period did not say she **WOULD** be placed in restrictive re-enrollment, but rather stated only that she **MAY** be placed in that status. While I empathize with her financial situation, the rules are clear with regard to the assessment and payment of premiums. As to the argument that the notice language did not specify that she **Would** be placed in restrictive re-enrollment, I first note that the petitioner acknowledges that she understood that placement in such a status was a possibility. Furthermore, it is obvious that absolute language regarding placement in restrictive re-enrollment is precluded by the fact that there are certain good cause reasons where non-payment of a premium will not result in placement in restrictive re-enrollment. Unfortunately, the record does not allege or verify that the petitioner's situation fits any of the aforementioned good cause reasons.

Based on the record before me, I conclude that the imposition of the restrictive re-enrollment status for petitioner was proper following her failure to pay her BC+ premium.

CONCLUSIONS OF LAW

Imposition of a 12 month restrictive BC+ re-enrollment period on the petitioner's case was correct.

THEREFORE, it is

ORDERED

That the petition 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 25th day of March, 2013

\sPeter McCombs
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 March 25, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability