



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCC/146550

PRELIMINARY RECITALS

Pursuant to a petition filed January 14, 2013, under Wis. Stat., §49.45(5)(a), to review a decision by the Western Region Consortium to discontinue Medical Assistance (MA), a hearing was held on February 21, 2013, by telephone.

The issue for determination is whether petitioner's appeal was timely.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Tom Miller
Western Region for Economic Assistance
P.O. Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Trempealeau County.
2. Petitioner received BadgerCare Plus (BC+) Core Plan MA until May 1, 2012. She was scheduled for a renewal prior to that date. She filed her renewal application and paid her \$60 processing fee, and the agency requested verification of her income to be filed by May 10, 2012.
3. The verification was not received, and on May 11, 2012, the agency sent a notice to petitioner that her MA was denied due to not receiving the verification. In June the \$60 processing fee was refunded.

4. Petitioner filed this appeal on January 14, 2013.

DISCUSSION

An appeal of a negative action concerning MA must be filed within 45 days of the action. Wis. Stat. §49.45(5)(a); Income Maintenance Manual, §3.3.2. Language concerning the right to appeal and the time limit is included as page two on all department notices. An MA appeal must be made in writing; it cannot be made orally unless it is then reduced to writing. Wis. Admin. Code, §HA 3.05(2)(a). The date of filing is the date the written appeal is received by the agency or the postmark date, whichever is earlier. Admin. Code, §HA 3.05(3)(c).

Petitioner was notified that her Core Plan MA was denied on May 11, 2012. An appeal would have had to be filed by June 26, 2012. Petitioner testified that she did not see the notice denying benefits, but it was sent to the same address at which she still lives. Furthermore, the \$60 processing fee was refunded (according to a case note dated June 5, 2012), so I cannot find that petitioner was not notified of the discontinuance by the agency.

Finally, even if the time limit for appeal could be ignored, I still would have to find that the denial was correct. The verification was not filed because petitioner's employer did not file it for reasons unknown. The BC+ rules do not have a good cause exception for verification requirements, and thus even if the appeal had been filed timely I still would have had to conclude that the discontinuance was correct.

CONCLUSIONS OF LAW

Petitioner's appeal of an MA discontinuance was untimely, and thus the Division of Hearings and Appeals does not have jurisdiction to review the merits of the appeal.

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 25th 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 25, 2013.

La Crosse County Department of Human Services
Division of Health Care Access and Accountability