



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCC/147228

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 09, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Wood County Human Services - WI Rapids ["County"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on February 26, 2013.

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

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Beulah Garcia, Resolution Coordinator, Northern Consortium  
Wood County Human Services - WI Rapids  
320 West Grand Avenue  
PO Box 8095  
Wisconsin Rapids, WI 54495-8095

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Vilas County.
2. Petitioner's MA Core renewal was scheduled and processed on November 13, 2012.

3. After her November 13, 2012 renewal petitioner promptly submitted a check for the \$60 MA Core processing fee and for the \$57 MA Core premium payment for December 2012; those checks were lost and never cashed.
4. Petitioner submitted a second check for the \$60 MA Core processing fee in November 2012 by a check dated November 27, 2012; for unknown reasons the check was not cashed until January 11, 2013.
5. Petitioner submitted a second check for the \$57 MA Core premium payment for December 2012 by a check dated December 1, 2013; for unknown reasons the check was not cashed until January 11, 2013.
6. The County discontinued petitioner's MA Core effective November 1, 2012 because it determined that petitioner did not pay the processing fee in a timely manner; the County refunded to petitioner \$57 MA Core premium payment she made for December 2012; the County did not refund the \$60 processing fee.

### 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) (2011-12); 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 43.9.

In this case, the County discontinued petitioner's MA Core because it determined that petitioner's processing fee was not received in a timely manner. 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 promptly after her November 13, 2012 renewal and, when that 1<sup>st</sup> check was lost, she again submitted the processing fee in November 2012 by a check dated November 27, 2012 (for unknown reasons the check was not cashed until January 11, 2013). Petitioner's testimony is credible in this regard -- especially in light of the fact that the record shows that the State computer system that keeps track of MA Core processing fee and premium payments was experiencing problems and contained

errors with regard to petitioner. The County representative testified that there was “confusion” about what was with petitioner’s case. Therefore, it was not correct to discontinue petitioner’s MA Core effective November 1, 2012.

### **CONCLUSIONS OF LAW**

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

**NOW, THEREFORE, it is**

### **ORDERED**

That this matter be REMANDED to the County, that, no later than April 19, 2013, the County determine the MA Core premiums, if any, that are past due for petitioner and send a written letter to petitioner stating what premiums (if any) are past due and how to pay those premiums, that, if petitioner pays all back due premiums (if any) no later than May 1, 2013, the County not discontinue petitioner’s MA Core effective November 1, 2012, and that, no later than May 10, 2013, the County issue all MA Core benefits for which petitioner is otherwise eligible retroactive to November 1, 2012. If petitioner fails to back all back due premiums (if any) by May 1, 2013 then her MA Core should remain closed effective November 1, 2012.

### **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 12th day of April, 2013

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\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 April 12, 2013.

Wood County Human Services - WI Rapids  
Division of Health Care Access and Accountability