



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/147498

PRELIMINARY RECITALS

Pursuant to a petition filed February 21, 2013, under Wis. Stat., §49.45(5)(a), to review a decision by Milwaukee Enrollment Services to discontinue Medical Assistance (MA), a hearing was held on April 10, 2013, by telephone.

The issue for determination is whether petitioner can be eligible for BadgerCare Plus (BC+) MA after missing a premium payment.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Alma Lezama
Milwaukee Enrollment Services
1220 W. Vliet St.
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner was notified that she had to pay an \$81 premium for December, 2012 BC+. A payment coupon was mailed on November 19, 2012. Petitioner did not pay the premium.
3. By a notice dated December 19, 2013, the agency informed petitioner that BC+ for her was being discontinued effective January 1, 2013, and that she would be ineligible for BC+ for twelve months, unless she paid the missing premiums by the end of January, 2013.

4. On February 8, 2013, petitioner contacted the agency and asked if she could pay the past due premiums. A worker told her to go to the business office and pay. When she did that she was told that it was too late to avoid restricted re-enrollment, and she filed this appeal.

DISCUSSION

BC+ recipients must pay a monthly premium based upon income. If a recipient does not pay the monthly payment before the month after the end of the benefit month, the recipient may be ineligible for the program for twelve months. Wis. Admin. Code, §DHS 103.085(3); BC+ Handbook, Appendix 19.8.1. The penalty for missing the premium is called “restrictive re-enrollment.”

Generally payments after the first month are due by the 10th of the benefit month. Handbook; App. 19.6. If a payment is missed, the agency will send a notice informing the client that benefits will end the first of the next month. If the person pays between the notice date and the first of the month, the case will not close. If the person pays after the first of the month, but before the end of that next month, the case can be reopened. See Handbook, App. 19.9.

Good cause reasons for not paying a BC+ premium include circumstances beyond the person’s control such as agency errors in processing premiums, problems with electronic funds transfers, or even lost mail. “Insufficient funds” is not a good cause reason. Admin. Code, §DHS 103.085(3)(b); Handbook, App. 19.8.3.

Once a person is in restrictive re-enrollment, the entire penalty period must be served unless household income drops below the level for which a premium is required. Handbook, App. 19.11.2.

In this case petitioner did not pay her December premium in December or January. As of February 1 she no longer could pay the premium to get out of restrictive re-enrollment. The worker at the agency who told her to make the premium payment in February misled her (for one thing, petitioner did not owe a premium for January or February because her BC+ closed January 1), but the error by the worker did not mean that the restrictive re-enrollment rule must be ignored. I thus cannot order the agency to re-open petitioner’s BC+. The only way that petitioner can regain BC+ eligibility is if her income falls below the premium level.

CONCLUSIONS OF LAW

Petitioner is ineligible for BC+ until January 1, 2014 because she missed her December, 2012 premium payment.

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 12th day of April, 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 April 12, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability