



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCB/147580

PRELIMINARY RECITALS

Pursuant to a petition filed February 26, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Green Lake County Department of Human Services in regard to Medical Assistance, a hearing was held on March 27, 2013, at Green Lake, Wisconsin.

The issue for determination is whether the petitioner timely filed her appeal of the placement of her son into a 6-month restrictive reenrollment period due to failure to pay a premium.

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: Shelby Jensen

Green Lake County Department of Human Services
Human Services Ctr
571 County Road A
Green Lake, WI 54941

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Green Lake County. Petitioner's minor son is a MA recipient through the BadgerCare Plus Benchmark Plan (BC+).

2. On August 3, 2012, petitioner was notified that she would be required to pay a monthly \$10.00 premium for her minor son's BC+ benefits for the month of September, 2012. That notice specified that a failure to pay the monthly notice would result in ineligibility for BC+ benefits for a period of 6 months for children, and 12 months for adults.
3. On August 7, 2012, petitioner was notified that she would be required to pay a monthly \$10.00 premium for her minor son's BadgerCare Plus Benchmark Plan (BC+) benefits for the month of July, 2012. That notice specified that a failure to pay the monthly notice would result in ineligibility for BC+ benefits for a period of 6 months for children, and 12 months for adults.
4. On September 10, 2012, petitioner was notified by the respondent that her MA application was denied, that her minor child was not enrolled in BC+ as of October 1, 2012, and that her minor child would not be able to re-enroll in BC+ for a period of 6 months. That notice specified that an appeal of this decision was due by November 16, 2012.
5. Petitioner filed an appeal of the placement of her minor son in restrictive reenrollment on February 26, 2013.

DISCUSSION

Medical assistance recipients must appeal negative decisions within 45 days of the date of the decision or the date that the decision takes effect, whichever is later. Wis. Adm. Code § HA 3.05(3). If an appeal is filed late, the Division of Hearings and Appeals loses its legal authority to consider the matter and must dismiss it. The county agency notified the petitioner on September 10, 2012, that her minor son's BadgerCare Plus benefits would end as of October 1, 2012, because she failed to pay her son's premium. She filed her appeal on February 26, 2012, or 148 days later. Because her appeal is late, I have no jurisdiction to hear her and must deny it.

The petitioner testified that she recalls receiving the notice stating that she would be required to pay a \$10.00 monthly premium. She denies receiving any subsequent notices or any payment coupon. The respondent testified that all notices were sent to petitioner's correct address, and no notices had been returned. The petitioner testified that she has not had any issues with her mail delivery otherwise. I conclude that the petitioner has failed to establish any good cause for failing to appeal this matter in a timely fashion. She was aware of the premium requirement, yet she never called to follow up when she allegedly failed to receive a coupon. Just as BC+ bears certain responsibility in carrying out its mandate, so do recipients of medical assistance bear responsibility to maintain compliance. The petitioner has provided no evidence that she took any reasonable steps to ensure that she was in compliance with BC+ rules. The respondent has demonstrated that it provided proper notice and took appropriate action here.

CONCLUSIONS OF LAW

There is no jurisdiction to consider the petitioner's appeal because it is untimely.

THEREFORE, it is

ORDERED

That the petitioner's appeal 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 17th day of May, 2013

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on May 17, 2013.

Green Lake County Department of Human Services
Division of Health Care Access and Accountability