



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/148170

PRELIMINARY RECITALS

Pursuant to a petition filed March 19, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Washington County Department of Social Services in regard to Medical Assistance, a hearing was held on May 09, 2013, at West Bend, Wisconsin.

The issue for determination is whether the agency properly terminated the Petitioner's BadgerCare Plus (BC+) benefits and denied the Petitioner's request to re-enroll in the BC+ program.

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: Julie Wililamson

Washington County Department of Social Services
333 E. Washington Street
Suite 3100
West Bend, WI 53095

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Washington County.
2. Petitioner was required to pay a premium of \$146/month for BC+ coverage. A premium of \$146 was due on December 10, 2012. Petitioner has not paid this premium.

3. On January 7, 2013, the agency issued a Notice of Decision to the Petitioner informing her that effective February 1, 2013 her BC+ benefits would end for non-payment of her premium. The notice informed her that if the premium was not paid by the end of February, 2013, she may be placed in restrictive re-enrollment.
4. Petitioner's BC+ benefits ended on February 1, 2013 for failure to pay the December premium.
5. On February 11, 2013, the agency issued a Notice of Decision to the Petitioner informing her that effective March 1, 2013, she is in a restrictive re-enrollment because of non-payment of her premium.
6. Petitioner has gross household income of \$2,521.08/month, including \$2,392.08 in gross earned income and \$129/month in unearned income. Her income is 199.95% of the Federal Poverty Level.
7. On March 19, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

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. She is in a restrictive re-enrollment until January, 2014. The Petitioner testified at the hearing that she had insufficient funds to pay the premium in December or January but that she now has the funds to do so. Unfortunately, given the evidence, I cannot find good cause for the non-payment and 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

The agency properly placed the Petitioner in restrictive re-enrollment for non-payment of her BC+ premium.

THEREFORE, it is

ORDERED

That the petition be, and hereby 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 Milwaukee,
Wisconsin, this 14th day of June, 2013

\sDebra Bursinger
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 June 14, 2013.

Washington County Department of Social Services
Division of Health Care Access and Accountability