



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCC/148570

PRELIMINARY RECITALS

Pursuant to a petition filed April 5, 2013, under Wis. Stat., §49.45(5)(a), to review a decision by the La Crosse County Dept. of Human Services to discontinue Medical Assistance (MA), a hearing was held on May 29, 2013, by telephone. A hearing set for May 2, 2013 was rescheduled at the petitioner's request.

The issue for determination is whether the agency correctly closed MA because petitioner was incarcerated.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Tom Miller

La Crosse County Dept. of Human Services
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 La Crosse County.
2. Petitioner received MA under the BadgerCare Plus (BC+) Core Plan. On January 14, 2013, petitioner was incarcerated for a period that would end on May 25, 2013. He was not released for work during the period.
3. By a notice dated February 18, 2013, the county informed petitioner that the Core Plan would end effective March 1, 2013 because he was incarcerated.

DISCUSSION

The Wisconsin Administrative Code, §DHS 103.03(6) provides as follows:

A person detained by legal process is not eligible for MA benefits. For purposes of this subsection, "detained by legal process" means incarcerated because of law violation or alleged law violation, which includes misdemeanors, felonies, and delinquent acts. A person who returns to the court after observation, is found not guilty of a law violation by reason of mental deficiency and is subsequently committed to a mental institution shall not be considered detained by legal process.

That provision is echoed in the BC+ Handbook, Appendix 3.6. There is an exception for individuals released under Huber privileges to care for family members, but no others.

I must conclude that the county correctly closed the Core Plan. Petitioner asked if he could get the program started again, but the state agency has decided that it will not allow cases to be reopened once they are closed, and the person must go on the waiting list unless he meets an exception. Handbook, App. 43.10 and 43.11. Incarceration is not an exception.

CONCLUSIONS OF LAW

The county correctly closed the BC+ Core Plan when petitioner was incarcerated, and he cannot re-enroll now because of the enrollment cap.

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 31st day of May, 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 May 31, 2013.

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