



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/149284

PRELIMINARY RECITALS

Pursuant to a petition filed May 9, 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 June 5, 2013, by telephone.

The issue for determination is whether petitioner's appeal of a BadgerCare Plus (BC+) Core Plan discontinuance was timely.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Belinda Bridges
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 received MA under the BC+ Core Plan until May 31, 2012. She had to complete a renewal, and on April 27, 2012 the agency sent petitioner a notice telling her to pay her \$60 processing fee. Petitioner did not pay the fee.

3. By a notice dated May 3, 2012, the agency informed petitioner that BC+ Core Plan MA would end May 31, 2012 because she had not paid her processing fee. If petitioner paid the fee prior to May 31, 2012 the renewal would be processed. Petitioner did not pay the fee.
4. Petitioner appealed the discontinuance on May 9, 2013.

DISCUSSION

An MA recipient must complete periodic reviews to continue eligibility. Wis. Adm. Code, §DHS 102.04(3); BC+ Handbook, Appendix 26.1. Whenever a new application or renewal is processed the BC+ Core Plan applicant/recipient must pay a \$60 processing fee. See Handbook, App. 43.9 concerning renewals. Failure to pay the fee results in the application/renewal being denied because the processing is incomplete. Handbook, App. 43.4.2. There is no good cause exception in the policy for failing to pay the enrollment fee. A homeless person can request that the fee be waived, but not after missing the payment date.

An appeal of a negative action concerning MA must be filed within 45 days of the action. Wis. Stat. §49.45(5)(a); Income Maintenance Manual, §3.3.2. Language concerning the right to appeal and the time limit is included as page two on all department notices. An MA appeal must be made in writing; it cannot be made orally unless it is then reduced to writing. Wis. Adm. Code, §HA 3.05(2)(a). The date of filing is the date the written appeal is received by the agency or the postmark date, whichever is earlier. Adm. Code, §HA 3.05(3)(c).

This appeal was filed almost a year after petitioner's MA ended, and thus it is untimely. Petitioner complained that she was living in a homeless shelter in April and May, 2012, and case notes from that period show that she reported that situation, and thus the her mailing address was changed to the Vliet Street pick-up address. There is nothing in the case notes showing that petitioner requested a waiver of the \$60 filing fee.

Petitioner also testified that she was unaware of the loss of her MA until she filed this appeal. Case notes show that she was aware of the lost MA no later than July, 2012. She did not appeal until May, 2013.

CONCLUSIONS OF LAW

Petitioner's appeal of a BC+ Core Plan MA discontinuance was untimely.

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 10th day of June, 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 June 10, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability