



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/150160

PRELIMINARY RECITALS

Pursuant to a petition filed June 21, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a telephonic hearing was held on July 24, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (MES) correctly discontinued petitioner's BadgerCare (BC) Plus benefits effective March 1, 2013, and restricted petitioner's reenrollment in BadgerCare, due to non-payment of her BC premium.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703
By: Katherine May, HSPC senior
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Milwaukee County who received Badgercare Plus benefits for herself and one minor child.
2. During January, 2013, petitioner received SSDI of \$877 and Unemployment Compensation (UC) benefits of \$265 per week (\$1,060 for the month).

3. Milwaukee Enrollment Services (MES) sent a January 18, 2013 Notice to the petitioner at her correct address of record stating that based upon her household income and her household composition, she would need to pay a monthly premium of \$106.00 as of February 1, 2013 to continue her BadgerCare (BC) Plus benefits for her household. Petitioner received that notice.
4. On or about January 18, 2013, MES sent to petitioner her February, 2013 premium coupon for her to pay by the end of February, 2013.
5. MES sent a February 18, 2013 Notice of Decision to the petitioner stating that she had not timely paid her February, 2013 BadgerCare premium, and that her BC benefits would be discontinued effective March 1, 2013 due to non-payment of BC premiums unless she paid that February premium by the end of March, 2013. Exhibit 1. That notice also stated that she would be placed in a 12 month restrictive re-enrollment period as of March 1, 2013, due to her failure to timely pay her BadgerCare premium. See Exhibit 1. The petitioner received Exhibit 1.
6. The petitioner did not pay her February, 2013 premium by the end of March, 2013, due to “misunderstanding” about the need for the premium payment.

DISCUSSION

BadgerCare (BC) Plus is an expansion of the Wisconsin MA program designed to provide coverage to children under age 19 and their parents. Wis. Adm. Code, §DHS 103.03(1)(f). To be eligible for BC, a person must be under age 19, a custodial parent, or the spouse of a custodial parent. Wis. Adm. Code, §DHS 103.03(1)(f)1. Parents in a BC+ household are eligible only if the total household income is no greater than 200% of the federal poverty level. See the BadgerCare + Eligibility Handbook, §16.1. A household that is eligible for BadgerCare + must pay a premium if its income is above 150% of the federal poverty level (FPL). Wis. Adm. Code, §DHS 103.085(b)(1).

A household must also meet financial requirements. Some recipients must pay a monthly premium based upon income. As a general rule, individuals who are assessed a premium for BadgerCare eligibility must make the assessed premium payment in a timely fashion or eligibility may be discontinued. BC+, § 19.1. If an individual or family with a premium obligation fails to pay the premium by adverse action of the benefit month, the BC+ will close for those individuals, who owed a premium and those individuals are not eligible for 12 calendar months following the date on which their coverage terminated unless there was good cause established. BadgerCare + Eligibility Handbook, §19.8. In this case the adverse action date was March 1, 2013.

If a late payment is received by the end of the month after the benefit month, lift the Restrictive Re-enrollment Period (RRP) (19.11) and reinstate eligibility. In the instant case, the petitioner failed to make her late payment during March, 2013 (month after the benefit month). Therefore, the petitioner’s Restrictive Re-enrollment could not be lifted by the county agency. Individuals who are able to present good cause for the failure to pay a premium may have the restrictive re-enrollment period lifted. However, the person will still have to pay the premiums in arrears before eligibility will begin again. BC+, § 19.11.2. The following are the good cause reasons:

19.8.2 Good Cause for Non-Payment

Good cause reasons for not paying the BC premium are:

1. Problems with the financial institution.
2. CARES Problem.
3. Local agency problem.
4. Wage withholding problem.
5. Fair hearing decision.

During the July 24, 2013 hearing, the petitioner admitted that she received the January 18, 2013 and February 18, 2013 notices. However, petitioner alleged that she was told by some unnamed ESS worker that she had no BC premium due for February or March, 2013. When questioned about this allegation, petitioner was unable to provide any specifics, date or documentation for this conversation with an ESS worker. The petitioner was correct that her daughter's Social Security Surviving Child benefits was suspended as of January, 2013. However, even without counting her child's unearned income, petitioner's household was above 150% FPL and therefore required her to pay a BC premium. Basically, petitioner explained that she was "confused" about whether or not she needed to pay her BC premium, but admitted receiving the notices stating clearly that her BC premium was due by the end of March, 2013. As indicated above, such explanation did not establish that her circumstance met any of the allowable good cause reasons stated above in the BadgerCare + Eligibility Handbook, §19.8.2, "Good Cause for Non-payment." As a result, petitioner was unable to establish any good cause for her failure to timely pay her required BadgerCare premium by the end of March, 2013.

The record is clear that petitioner failed to pay her BadgerCare premium during the premium month of February, 2013 or the month after the benefit month as required. The petitioner was unable to establish that her failure to timely pay her BadgerCare premium was due to circumstances beyond her control or any other listed good cause reason. Accordingly, for the above reasons, Milwaukee Enrollment Services correctly discontinued petitioner's BadgerCare effective March 1, 2013, and continued that discontinuance during the 12 month restrictive re-enrollment period per BadgerCare Plus Eligibility Handbook, §19.11, "BadgerCare Plus Restrictive Reenrollment."

CONCLUSIONS OF LAW

Milwaukee Enrollment Services correctly discontinued petitioner's BadgerCare benefits effective March 1, 2013, and continued that discontinuance during the 12 month restrictive re-enrollment period pursuant to the BadgerCare + Eligibility Handbook, §19.11. "BadgerCare Plus Restrictive Reenrollment."

THEREFORE, it is

ORDERED

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 9th day of September, 2013

\sGary M. Wolkstein
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 September 9, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability