



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCC/151231

PRELIMINARY RECITALS

Pursuant to a petition filed August 09, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services ["MiLES"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on September 03, 2013.

The issue for determination is whether it was correct to discontinue petitioner's MA BadgerCare Core ["MA Core"].

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Pam Hazley, HSPC, Senior
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

OTHER PERSONS PRESENT:

[REDACTED], IM 2, MiLES
[REDACTED], IM 1, MiLES

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On December 5, 2012 petitioner did a renewal for MA Core and was required to pay a \$60 processing fee.
3. Petitioner never paid the \$60 processing fee.
4. By an *About Your Benefits* letter notice dated December 17, 2012 MiLES informed petitioner that his MA Core would end on January 1, 2013.

DISCUSSION

All MA Core members must complete a renewal by the last day of the 12-month certification period in order to stay enrolled without any lapse in coverage. In order to avoid any lapse in enrollment, a complete renewal must be submitted by the 5th of the month. A complete renewal consists of, among other things, an application processing fee (the application processing fee must be waived for homeless individuals). *BadgerCare + Eligibility Handbook* ["BC+EH"] 43.2(*Application requirements*) & 43.9.; Centers For Medicare & Medicaid Services (federal Project No. 11-W-00242/5), *Expenditure Authority #7* and *Special Terms and Conditions* IV(17)(m), IV(21)(c) & V(27)(a); See also, Wis. Stat. § 49.45(23)(b) (2011-12). If a renewal is not completed by the end of the certification period, the case will close. BC+EH 26.3.

Petitioner never paid the \$60 processing fee. Therefore, it was correct to deny petitioner's renewal for MA Core for failure to pay the processing fee.

Petitioner testified that he did pay the processing fee -- he testified that he had someone send in a money order for him. However, MiLES has no record of the processing fee ever being paid. As noted above, a complete renewal must be submitted or the case will close -- and a complete renewal includes the application processing fee. Thus, it was correct to deny petitioner's renewal for MA Core for failure to pay the processing fee.

Finally, it is noted that the County also argues that petitioner failed to request a Hearing in a timely manner. See, 42 C.F.R. § 431.221(d) (2011); Wis. Stat. § 49.45(5)(a) (2011-12); Wis. Admin. Code § DHS 104.01(5)(a)3. (December 2008); Wis. Admin. Code § HA 3.05(3) (February 2013); BC+EH 29.2.; *Income Maintenance Manual* ["IMM"] 3.3.2. However, petitioner testified that he was in jail, his mail was not forwarded, and he was not aware of the ending of his MA Core. He also testified that he moved several times and that he did receive the December 17, 2012 *About Your Benefits* letter notice but does not know when. Finally, further confusing matters is the existence of a manual *Negative Notice* dated August 28, 2013 informing petitioner that his MA Core would be terminated effective February 1, 2013 "because you failed to pay your \$60 BCLA Core Enrollment Fee." That August 28, 2013 *Negative Notice* gave petitioner 45 days in which to ask for a Hearing. Under these circumstances petitioner's petition will not be dismissed as untimely.

CONCLUSIONS OF LAW

For the reasons discussed above, it was correct to discontinue petitioner's MA Core.

NOW, 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 6th day of September, 2013

\sSean P. Maloney
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 6, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability