



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCC/151246

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"] effective April 1, 2013.

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 March 8, 2013 petitioner was incarcerated and continued to be incarcerated until on or about August 1, 2013.
3. By an *About Your Benefits* letter notice dated March 12, 2013 MiLES informed petitioner that his MA Core would end on April 1, 2013 because he was incarcerated.

DISCUSSION

Persons who are incarcerated are not eligible for MA Core. *BadgerCare + Eligibility Handbook* ["BC+EH"] 3.6, 43.5.3 & 43.8.1; See also, Wis. Stat. § 49.45(23)(b) (2011-12). Petitioner was incarcerated from approximately March 8, 2013 to on or about August 1, 2013. Therefore, was correct it to discontinue petitioner's MA Core effective April 1, 2013.

Petitioner testified that he needs medical attention for his liver disease and has nowhere else to go. His testimony was sincere. Unfortunately, as noted above, persons who are incarcerated are not eligible for MA Core.

Finally, it is noted that the MiLES 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 did not receive the March 12, 2013 *About Your Benefits* letter notice because he was incarcerated. 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 effective April 1, 2013.

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 9th day of September, 2013

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Wayne J. Wiedenhoef, Acting Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 9, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability