



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/153220

PRELIMINARY RECITALS

Pursuant to a petition filed November 1, 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 December 3, 2013, by telephone.

The issue for determination is whether petitioner had good cause for failing to pay her BadgerCare Plus (BC+) premium.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Katherine May
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 has been responsible for paying a BC+ premium since 2012. In August, 2013, petitioner submitted an automatic transfer request to her bank to cover the monthly premium, but was aware that it would take some time for it to become effective.

3. Petitioner went to the agency in September to pay her September premium, but was told at that time that nothing was showing as owed for the month. Petitioner assumed that the automatic transfer would cover any unpaid months.
4. By a notice dated September 18, 2013, the agency informed petitioner that BC+ for her would end October 1, 2013 because she did not pay her premium. BC+ for petitioner's children was unaffected. That notice later was returned to the agency.
5. A second notice was sent on October 10 to petitioner's new address telling her that BC+ for the children would end November 1 due to verification issues (that issue was resolved). The notice stated that petitioner was not eligible because she failed to pay her premium. Petitioner did not receive that notice either. Petitioner finally discovered that her BC+ was closed late in October, and she went to the agency to make the September and October payments on November 1, but it was too late at that point.
6. Benefits were continued pending this decision.

DISCUSSION

BC+ recipients must pay a monthly premium based upon income. If a recipient does not pay the monthly payment before the month after the end of the benefit month, the recipient may be ineligible for the program for twelve months. Wis. Admin. Code, §DHS 103.085(3); BC+ Handbook, Appendix 19.8.1. The penalty for missing the premium is called "restrictive re-enrollment."

Generally payments after the first month are due by the 10th of the benefit month. Handbook; App. 19.6. If a payment is missed, the agency will send a notice informing the client that benefits will end the first of the next month. If the person pays between the notice date and the first of the month, the case will not close. If the person pays after the first of the month, but before the end of that next month, the case can be reopened. See Handbook, App. 19.9.

Good cause reasons for not paying a BC+ premium include circumstances beyond the person's control such as agency errors in processing premiums, problems with electronic funds transfers, or even lost mail. "Insufficient funds" is not a good cause reason. Admin. Code, §DHS 103.085(3)(b); Handbook, App. 19.8.3.

The circumstances in this case are unusual enough that I will find that petitioner had good cause for missing the payments. First, petitioner regularly made payments for well over a year before this mishap occurred. I believe petitioner's testimony that an agency representative told her that nothing was owed when petitioner went to the agency in early September to pay. Petitioner received neither the September 18 nor the October 10 notices. Petitioner may have filed her address change late (she says she filed it timely), but the first notice returned before she even moved. Finally petitioner attempted to pay the premiums but showed up one day too late.

As noted during the hearing, petitioner now will have to pay premiums for September through December, 2013. If she fails to do so her case likely will close again. If petitioner goes to the agency to make the payments she should bring a copy of this decision along so the cashier will understand why she is attempting to pay.

CONCLUSIONS OF LAW

Petitioner had good cause for missing her September BC+ premium payment.

THEREFORE, it is

ORDERED

That the matter be remanded to the county with instructions to continue petitioner's BC+ eligibility, to remove the restrictive re-enrollment from petitioner's case, and to allow petitioner to pay the BC+ premiums for the months of September through December, 2013. The agency shall do so within 10 days of this decision.

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, Room 651, 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 5th day of December, 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 December 5, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability