



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/154462

PRELIMINARY RECITALS

Pursuant to a petition filed December 26, 2013, under Wis. Stat., §49.45(5)(a), to review a decision by the Marathon County Dept. of Social Services to discontinue Medical Assistance (MA), a hearing was held on February 18, 2014, by telephone.

The issue for determination is whether petitioner can be given good cause to be removed from restrictive re-enrollment for BadgerCare Plus (BC+) MA.

PARTIES IN INTEREST:

Petitioner:



Respondent:

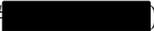
Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Maikou Yang
Marathon County Dept. of Social Services
400 E. Thomas Street
Wausau, WI 54403

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Marathon County.
2. Petitioner received BC+ for herself, her husband, and their son. The adults were required to pay a \$102 monthly premium.
3. The monthly premium for September was not received by the BC+ fiscal agency. By a notice dated September 18, 2013, the agency informed petitioner that BC+ for the adults would end October 1, and that the adults would be placed in restrictive re-enrollment if they did not pay the

premium by the end of October. The notice stated that petitioner could appeal if she disagreed, with a due date for the appeal being November 18, 2013.

4. The premium was not paid by the end of October. Petitioner filed this appeal on December 26, 2013.

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.

Once a person is in restrictive re-enrollment, the entire penalty period must be served unless household income drops below the level for which a premium is required. Handbook, App. 19.11.2.

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 on all department notices. If an appeal is untimely the Division of Hearings and Appeals lacks jurisdiction to consider the petitioner’s position on the merits.

There are two problems with petitioner’s appeal. As noted above, it was filed on December 26, 2013, well beyond the 45-day limit that would give this office jurisdiction. In addition, petitioner testified that she mailed a money order, but she has no proof whatsoever that she did so.

I have no choice but to find that the restrictive re-enrollment is properly in place.

CONCLUSIONS OF LAW

Petitioner’s appeal of an action to place her on BC+ restrictive re-enrollment 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, 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 21st day of February, 2014

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

Brian Hayes, 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 February 21, 2014.

Marathon County Department of Social Services
Division of Health Care Access and Accountability