



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/154725

PRELIMINARY RECITALS

Pursuant to a petition filed January 11, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Brown County Human Services in regard to Medical Assistance, a telephone hearing was held on February 18, 2014, and subsequently continued on March 17, 2014.

The issue for determination is whether the county agency correctly placed the petitioner in restrictive reenrollment for the BadgerCare Plus program because he failed to pay his monthly premium.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Stacy Geal
Brown County Human Services
Economic Support-2nd Floor
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.
2. The respondent notified the petitioner on October 22, 2013, that he must pay an \$81.00 monthly BadgerCare Plus premium beginning on November 1, 2013.

3. When no payment was received, the respondent notified petitioner on November 18, 2013, that if he did not pay his premium by the end of December, 2013, he would not be able to enroll in the program for 12 months.
4. The petitioner did not pay his premium by the end of December, 2013.

DISCUSSION

The petitioner had been qualified to receive medical assistance under BadgerCare Plus, which covers children under 19 and their parents. Wis. Stat. § 49.665. The respondent ended his benefits as of December 1, 2013, because he failed to pay the premium due by that date. The program's rules require recipients to pay a premium by "the 10th of the month prior to the month for which the premium is required." Wis. Admin. Code § DHS 103.085(1)(d)2. If a person fails to pay the premium by the end of the month for which it is due, benefits end on the last day of that month. Wis. Admin. Code § DHS 103.085(1)(d)3. Those whose benefits end because they did not pay a premium cannot reenroll for 12 months unless they did not pay because of circumstances beyond their control. These circumstances include:

- a. A problem with an electronic funds transfer from a bank account to the BadgerCare program.
- b. A problem with an employer's wage withholding.
- c. An administrative error in processing the premium.
- d. Any other circumstance affecting payment of the premium which the department determines is beyond the group's control, but not including insufficient funds.

Wis. Admin. Code, § DHS 103.085(3)(b)1

The petitioner contends that he did not recall receiving a premium notice, though he commented that he thought that he had, in fact, paid the November premium. He testified that he never called about the lack of a premium coupon for the December payment. The respondent noted that several notices were sent regarding the required premium payments.

I note that, even if petitioner did not receive the premium notice, he should have been aware that it was due every month. Furthermore, Wisconsin medical assistance regulations specifically prohibit considering insufficient funds as an acceptable extenuating circumstance for not paying a premium.

CONCLUSIONS OF LAW

The county agency correctly restricted the petitioner's enrollment in the BadgerCare Plus program for 12 months because he did not pay his premium.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 22nd day of April, 2014

\sPeter McCombs
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 April 22, 2014.

Brown County Human Services
Division of Health Care Access and Accountability