



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/155261

PRELIMINARY RECITALS

Pursuant to a petition filed February 05, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on March 05, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether petitioner appeal was timely.

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: Jose Silvestre

Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. The respondent notified the petitioner on December 10, 2013, that she must pay an \$81.00 monthly BadgerCare Plus premium beginning on January 1, 2014. The notice indicated that if she did not pay her premium, she would be placed into restrictive reenrollment for 12 months. The

notice further provided that she could request a hearing on the premium determination if she filed an appeal by January 27, 2014. Exhibit 5.

3. Petitioner informed the respondent that she did not want to continue her Medical Assistance benefits due to the unaffordable premium.
4. The respondent notified petitioner on December 13, 2014, that she would be unable to enroll for a period of 12 months because she asked that her benefits be ended or because she did not pay her premiums on time. That notice provided that she could request a hearing if she filed an appeal by January 28, 2014. Exhibit 5.
5. Petitioner appealed her premium obligation on February 5, 2014.

DISCUSSION

Medical assistance recipients must appeal negative decisions within 45 days of the date of the decision or the date that the decision takes effect, whichever is later. Wis. Admin. Code § HA 3.05(3). If an appeal is filed late, the Division of Hearings and Appeals loses its legal authority to consider the matter and must dismiss it. The county agency notified the petitioner on December 10, 2013, that she would be required to pay a BadgerCare Plus premium. The petitioner opted not to continue her BadgerCare Plus coverage and the agency confirmed that in a notice dated December 13, 2014. The latest date to file a timely appeal of the premium amount was January 27, 2014. The latest date to file a timely appeal of the confirmation that petitioner was declining benefits was January 28, 2014. Petitioner did not appeal these decisions until February 5, 2014. She testified at hearing that she was not as concerned with the Medical Assistance appeal (as compared to her concurrent FoodShare and Child Care appeals), but that she did want to appeal the issue of the premium. Unfortunately, because the appeal is late, I must dismiss it.

CONCLUSIONS OF LAW

The Division of Hearings and Appeals has no jurisdiction to consider the petitioner's appeal because it is untimely.

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 16th 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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Madison, WI 53705-5400

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The preceding decision was sent to the following parties on April 16, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability