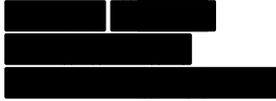




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/158098

PRELIMINARY RECITALS

Pursuant to a petition filed April 20, 2014, 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 June 12, 2014, by telephone.

The issue for determination is whether the agency handled petitioner's MA case correctly over the past few months.

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Pang Thao-Xiong
Milwaukee Enrollment Services
1220 W. Vliet Street
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 is disabled and received Medicare. In early 2014 he also received BadgerCare Plus (BC+) MA along with his son although his son turned 19 in December, 2013. On March 14, 2014, the agency sent petitioner a notice stating that BC+ would end April 1 because petitioner no longer cared for a minor child. The notice mentioned that petitioner could receive MA with a deductible.

3. Petitioner reported on March 16 that his son was not in the home.
4. On March 20 the agency sent a notice telling petitioner that he was ineligible for BC+ effective May 1, 2014, but he could be eligible for MA if he met a deductible.
5. Petitioner filed an appeal but initially it was misplaced. The appeal was opened by the Division of Hearings and Appeals on June 4, 2014, and MA was ordered to be continued. MA was granted for the period April 1 through June 30, 2014.
6. Petitioner receives \$788 per month in social security. He also was employed with [REDACTED] with income listed at \$258 every other week.
7. On April 9, 2014, the agency requested verification of petitioner's income from [REDACTED] because a state wage match suggested that actual income was higher than the amount budgeted. No verification was received. On April 29 the agency sent a notice that all medical programs would close June 1 because verification was not received.
8. On May 13 petitioner reported that he last worked at [REDACTED] on April 29. No verification was received. An agency worker contacted [REDACTED] and was told that they were too busy to talk; no further contact was made.

DISCUSSION

Prior to April 1, 2014, to be eligible for BC+, a person had to be under age 19, a custodial parent, or the spouse of a custodial parent. Wis. Admin. Code, §DHS 103.03(1)(f)1. Since petitioner's son turned 19 in December, his BC+ should have closed January 1, 2014. Instead it remained open until the agency action in March that it would close April 1. Petitioner appealed that determination and BC+ was reopened retroactive to April 1 pending the appeal.

State law changed effective April 1, 2014. As of that date most childless adults are eligible for BC+ but with the income limit reduced to 100% of the Federal Poverty Level. See Wis. Stat., §49.471(4)(a)4.b for the new law, and the MA Handbook, Appendix 50.1 for the limit. However, adults who receive Medicare are not eligible for BC+ under this program. See BC+ Handbook, §2.1.

Because petitioner is a Medicare recipient and no longer cares for a minor child, his only MA eligibility would be under the "Elderly, Blind, and Disabled" (EBD) category. Under EDB rules, when a person's income is over the MA limit, an MA deductible, also known as a spend-down, must be met before eligibility begins. Wis. Stat., §49.47(4)(c)2; Wis. Admin. Code, §DHS 103.08(2)(a); MA Handbook, §24.2. The current income limit for a one-person household is \$591.67. MA Handbook, Appendix 39.4.1. The deductible is determined by subtracting the MA limit from the person's net income, and then multiplying the result by six.

An MA deductible is calculated for a six-month period. When that period ends, a new deductible is then established for the next six months. Admin. Code, §DHS 103.08(2)(c); MA Handbook, §24.3. To obtain MA during the deductible period, the client must submit to the economic support worker copies of medical bills incurred. MA eligibility begins as of the date that the incurred bills meet the deductible amount.

There is also an EDB program called the Medicaid Purchase Plan (MAPP) that allows disabled individuals to work but to retain eligibility for MA. Wis. Stat., §49.472; MA Handbook, §5.12.1. If net income is below 250% of the federal poverty level, the person is eligible for the program. Wis. Admin. Code, §HFS 103.03(8)(b); Handbook, §5.12.4.2. That amount is \$2,431.25 for a single individual; there can be a monthly premium if income is higher than \$1,458.75. The employment need not be full-time; any part-time work is sufficient. Petitioner could have been eligible for MAPP while working at the flower shop.

Clearly there were problems with petitioner's case from the agency standpoint. It is inexplicable that BC+ was kept open in the first three months of 2014 after petitioner's son turned 19, and that does not even account for petitioner's testimony that he reported his son out of the household in December (case notes show that petitioner still reported his son as being a high school student in October, 2013, and there is no mention of his son in case notes thereafter until March, 2014). Nevertheless, even if petitioner's son was in the home BC+ should have stopped January 1, 2014, so petitioner actually received three more months of the benefit than he should have received.

Beginning April 1 petitioner's only eligibility for MA would be under EDB rules. As noted, he could have been eligible for MAPP, but interrupting processing was the request for verification of his flower shop income. Although the agency was budgeting \$516 per month as income from that job, state wage matches showed quarterly income to average substantially higher than that, so the agency wanted to obtain current income information. Nothing was received, which led to the notice that MA would end June 1, 2014.

During the hearing petitioner contacted the flower shop. The person who answered said that he last worked there April 19 and was last paid April 29. I accept that as verification that he no longer has the income from [REDACTED] as of May, 2014.

Petitioner's reaction to all of this is extreme anger. I wish that everything would run smoothly for him, but responding with anger and threats does not help his case. He asked that I order Milwaukee Enrollment Services out of his case, but the Division of Hearings and Appeals does not have authority to do that. That agency is in charge of Milwaukee County cases, period. He also complained that someone at the hospital told him his MA was stopped; I checked. That is not true. MA remains in place until at least June 30, 2014.

Given everything, and since petitioner has coverage through June, I will order the agency to determine his eligibility beginning July 1, 2014. It should accept as verified that his income from [REDACTED] ended in April. Thus his only income is the \$788 social security. He still is subject to meeting a deductible to be eligible for MA beginning July 1 because his income is higher than \$591.67. I know he will be angered by that statement; I cannot change state law, however. If he obtains employment of any kind he can be eligible for MAPP at the much higher income limit; he will have to request MAPP and verify employment.

One final note. Petitioner demanded a complete transcript of the hearing. While this office will prepare transcripts, there is a \$3.40 charge per page and there is a delay due to the volume of transcripts already on order. A request for an expedited transcript will entail additional cost. The office will also provide a compact disk recording of the hearing for \$10. With those costs in mind, if petitioner still wants either a written transcript or a CD, he should request either in writing to this office.

CONCLUSIONS OF LAW

1. The agency correctly sought to close BC+ effective April 1, 2014 because petitioner no longer cares for a minor child.
2. Petitioner remains eligible for MA under EDB rules but will have to meet a deductible unless he gains eligibility under the MAPP program.
3. It has been verified that petitioner ended his employment at [REDACTED] in April, 2014.

THEREFORE, it is

ORDERED

That the matter be remanded to Milwaukee Enrollment Services with instructions to determine petitioner's MA eligibility beginning July 1, 2014, accepting that his employment ending at [REDACTED] in April, 2014 has been verified, and thus his only income is \$788 per month social security. Petitioner will have to request MAPP coverage if he has other employment. The agency shall make the determination and notify petitioner of his status within 10 days of this decision.

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 June, 2014

\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 June 16, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability