



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



MAP/162999

PRELIMINARY RECITALS

Pursuant to a petition filed January 02, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on January 22, 2015, at Milwaukee, Wisconsin.

The issues for determination are (1) whether the agency properly determined the petitioner's eligibility for MAPP for October 2014 and forward (2) if and when the six-month restrictive re-enrollment period applies for failure to pay MAPP premiums.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



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:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # ) is a resident of Milwaukee County.
2. On September 17, 2014 the agency sent the petitioner a notice saying that she would be open for MAPP effective October 1, 2014 with a monthly premium of \$125.

3. On September 26, 2014 the agency mailed the petitioner a notice stating that effective November 1, 2014 her MAPP benefits would be ending because she was eligible for a different Medicaid subprogram.
4. In October 2014 the petitioner verified her assets. On October 29, 2014 they sent the petitioner notice stating that they re-determined that effective December 1, 2014 the petitioner would again be eligible for MAPP with a \$125 premium.
5. On November 10, 2014 the agency sent the petitioner notice that her MAPP premium for December 2014 would increase from \$125 to \$150.
6. On December 8, 2014 the agency sent the petitioner notice her MAPP premium would decrease from \$150 to \$125 effective January 2015.
7. On December 19, 2014 the agency sent the petitioner a notice stating that her MAPP benefits would close effective January 1, 2015 because she had failed to pay her premium.
8. On December 22, 2014 the agency confirmed that they received a \$150 payment from the petitioner. \$125 of this payment was applied to the October premium. \$25 was applied to the petitioner's December premium.
9. The agency confirmed that the petitioner had health coverage in October and December.
10. The petitioner's MAPP benefits were restored pending the outcome of this fair hearing decision.

DISCUSSION

The MAPP program allows disabled individuals to work but to retain eligibility for Medical Assistance (MA). Wis. Stat., §49.472; *MA Eligibility Handbook (MEH)*, 5.12.1. If income is above 150% of the federal poverty level, the person is required to pay a monthly premium to receive MAPP benefits. *MEH*, 5.12.5. Income eligibility is determined using general MA rules. Wis. Admin. Code, §DHS 103.04. MA rules require the department to utilize Supplemental Security Income (SSI) regulations to determine what income is counted, disregarded, or exempt. Wis. Stat., §49.47(4)(c), Wis. Admin. Code, §§DHS 103.04(8)(b) and 103.07(2)(g).

If a premium is not paid when due, the MAPP is to be discontinued and the recipient placed in a 6-month restrictive re-enrollment period. Such a recipient cannot become eligible for MAPP during that period of time until she pays all arrears and current payments. *Medicaid Eligibility Handbook*, § 26.6.1. There are five "good cause" exceptions for not paying a MAPP premium, i.e., (1) problems with electronic funds transfer; (2) problems with an employer's wage withholding; (3) administrative error in processing the premium; (4) fair hearing decision; and (5) those determined to be beyond the client's control. See, *Medicaid Eligibility Handbook*, § 26.6.2. After twelve months, a recipient may regain eligibility without paying the past due premiums. *Medicaid Eligibility Handbook*, § 26.6.1.

In this case there is no dispute that the petitioner was eligible for MAPP with a premium in October 2014 and December 2014. The petitioner's premium for October 2014 was \$125 and for December 2014 was \$150. The petitioner does not dispute the premium amounts. In addition, I have reviewed the petitioner's income and the agency's premium calculations and the calculations are correct.

With respect to November 2014 I find that the petitioner should not have received MAPP benefits that month, and therefore is not responsible for a premium for that month. On September 26, 2014 the agency mailed the petitioner a notice stating that effective November 1, 2014 her MAPP benefits would be ending because she was eligible for a different Medicaid subprogram. The next notice with respect to the MAPP benefits was mailed on October 29, 2014 stating that they re-determined that effective December 1, 2014 the petitioner would again be eligible for MAPP with a \$125 premium. They later sent another

notice stating that the premium amount for December 2014 was \$150, not \$125. The notices provided to the petitioner state that she would not have coverage in November 2014, thus I find that she should not have had coverage that month, and therefore is not responsible for a premium that month.

The last issue in this case is the restrictive re-enrollment period. The agency originally sought to enforce a six-month restrictive re-enrollment period when the petitioner failed to pay in December 2014. At that point the petitioner paid \$150, and the agency backed off their position. At the hearing, the agency agreed that if the petitioner paid her back premiums that her case could remain open. It appears that the agency is no longer attempting to enforce a six-month restrictive re-enrollment period.

When looking at the six-month restrictive re-enrollment rule it's important to note that if the agency sought to apply that rule within this six month time period a person is not eligible for MAPP regardless of whether the person pays the back premiums. Only after the six-month sanction or time period can a person become eligible for MAPP coverage and then the person is only if he or she pays the back premium amount and the first month premium amount up front. After 12 months a person is eligible without paying the back premiums.

In this case the agency seems to acknowledge that there has been some confusion, and appears to have given the petitioner every benefit of the doubt by allowing her to maintain her MAPP coverage if she pays the back premium amounts.

Because the agency is not seeking to enforce this six-month restrictive re-enrollment period, the last question is what the petitioner must pay to maintain her MAPP benefits. I note that the petitioner's MAPP coverage was restored pending the outcome of this appeal. Therefore, the petitioner has had MAPP coverage in October 2014, December 2014, January 2015, and February 2015. If the petitioner pays the correct monthly premium amounts for those months, and pays her March 2015 premium on time, then her MAPP coverage can remain open. I note that the petitioner does not owe a premium for November 2014 as she should not have coverage that month based on the agency's notices and summary statement.

I further note that if the petitioner fails to pay the total arrears amount, then the agency may impose the six-month restrictive re-enrollment period. This would make the petitioner ineligible for MAPP benefits for a six month time period regardless of whether she pays a back premium amount.

CONCLUSIONS OF LAW

The petitioner is eligible for MAPP with a premium in October 2014, December 2014, January 2015, and February 2015. The petitioner may maintain her MAPP coverage if she pays her total arrears amount and her March 2015 premium by March 10, 2015. If the petitioner fails to pay the arrears amount, the agency may impose the six-month restrictive re-enrollment period.

THEREFORE, it is

ORDERED

That this case is remanded back to the agency. Although this case is being remanded back to the agency, my decision is consistent with the agency's position at the hearing. The petitioner was unclear what she wanted to do at that time, and asked that this case proceed with hearing and decision.

The agency should determine the premium amounts for December 2014, January 2015, February 2015, and March 2015. No premium is due for November 2014. The petitioner may maintain her MAPP coverage if she pays her total arrears amount and her March 2015 premium by March 10, 2015. If the

petitioner fails to pay the arrears amount or her March 2015 premium, the agency may impose the six-month restrictive re-enrollment period.

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 Milwaukee,
Wisconsin, this 23rd day of February, 2015

\sCorinne Balter
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 February 23, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability