



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/163333

PRELIMINARY RECITALS

Pursuant to a petition filed January 17, 2015, 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 February 10, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly discontinued the Petitioner's BC+ Pregnant Women benefits effective November 1, 2014.

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: Simone Johnson

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

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner was pregnant and receiving BC+ Pregnant Women effective May 1, 2014.
3. Petitioner's son was born on August 2, 2014. The birth was reported to the agency on August 11, 2014.

4. On August 13, 2014, the agency issued a Notice of Decision informing the Petitioner that she and two minor children in the household were enrolled in BC+ with no monthly premium.
5. On August 21, 2014, the Petitioner submitted a renewal to the agency.
6. On August 27, 2014, the agency issued a Notice of Proof Needed to the Petitioner requesting verification of her husband's employment and income. The due date for the requested information was September 5, 2014.
7. The Petitioner did not submit requested verifications by September 5, 2014. On September 8, 2014, the agency issued a Notice of Decision informing the Petitioner that she and her son were enrolled in BC+ with no monthly premium but her husband and daughter were not enrolled in BC+ for failure to provide requested verifications.
8. On September 15, 2014, the agency issued a notice to the Petitioner that her renewal was due for BC+ and must be completed by October 31, 2014.
9. On October 17, 2014, the agency issued a Notice of Decision to the Petitioner notifying her that she would not be enrolled in BC+ effective November 1, 2014 due to failure to complete her renewal. The notice advised the Petitioner that if she wished to keep the benefits, she must contact the agency before the end of the month.
10. On October 25, 2014, the Petitioner submitted a renewal to the agency.
11. On October 29, 2014, the agency issued a Notice of Proof Needed to the Petitioner requesting verification of her husband's employment and income. The due date for the requested information was November 7, 2014.
12. On November 7, 2014, the agency received the requested information. The case was updated and the agency confirmed the Petitioner's household income exceeded the program limit.
13. On November 10, 2014, the agency issued a Notice of Decision informing the Petitioner that effective December 1, 2014, she and her husband are not enrolled in BC+ due to income over the program limit.

DISCUSSION

An MA recipient must complete periodic reviews to continue eligibility. Wis. Admin. Code, §DHS 102.04(3); BC+ Handbook (BCPH), § 26.1. An enrollment period for BC+ is twelve months except for pregnant women in which case the renewal date is two calendar months after the pregnancy ends. BCPH, §§ 8.1 and 26.1.1. Continued eligibility for BC+ depends on timely completion of a renewal. BCPH, § 26.1.1.

Proof of certain information is required to determine eligibility for BC+ at application, renewal and other changes in circumstance that affect eligibility or benefit level. BCPH, § 9.1. A group's eligibility may not be denied for failure to provide the required verification until the 10th day after requesting verification or the end of the renewal month *whichever is later*. BCPH, § 9.3 (Emphasis added). A member must receive a notice at least ten days prior to a negative action such as a termination of benefits or an increase in premium. BCPH §29.1. The BCPH provides the following as examples:

Example 1: Fred's eligibility renewal is due in April. He submits a mail-in renewal form on April 10th. The eligibility worker requests verification of his income on April 11th. If the verification is not submitted by April 30th, his eligibility will end on April 30th.

Example 2: Shannon's eligibility renewal was due in June. At Adverse Action in June a notice was sent to Shannon to let her know her BC+ eligibility would end June 30th because she had not yet completed her renewal. A telephone interview was conducted on

June 30th. A request for verification, with a July 10th due date, was sent to Shannon. Because the required verification (including signature) was not submitted by July 10th, her eligibility beginning July 1st was denied.

In this case, the agency argues that the Petitioner did not complete a renewal by October 31, 2014 and therefore, her BC+ Pregnant Woman ended. Her renewal application was processed when she submitted verifications in a timely manner on November 7, 2014. The agency concluded the Petitioner's household income exceeded the program limit and therefore denied her eligibility effective December 1, 2014.

The Petitioner argues that she completed her renewal in a timely manner when she submitted verifications on November 7, 2014 and therefore her benefits should not have ended on November 1, 2014. She does not dispute the agency's determination that she was over the program limit and not eligible effective December 1, 2014. She does dispute that she was not given timely and adequate notice that her benefits would end on November 1, 2014.

I conclude the Petitioner is correct. The agency sent a notice on October 17, 2014 advising the Petitioner to complete her renewal by October 31, 2014. The Petitioner submitted her renewal on October 25, 2014 and on October 29, 2014, the agency requested additional information with a due date of November 7, 2014. Petitioner submitted the verifications on November 7, 2014.

Section 9.3 of the BCPH states that eligibility may not be denied for failure to submit a timely renewal until the 10th day after requesting verification or the end of the renewal month, *whichever is later*. In this case, Petitioner's eligibility for November, 2014 cannot be denied for failure to submit a timely renewal because she complied with the verification request to submit information by November 7, 2014. Thus, there was not a timely and adequate notice that her benefits would end on November 1, 2014.

The issue here results because of the timing of the request for verification for the renewal with the end of the Petitioner's eligibility for BC+ Pregnant Woman. The notices issued by the agency do not specify between BC+ Pregnant Woman and regular BC+ and were understandably confusing to the Petitioner. She complied in a timely manner with the request to submit information. The regulations clearly provide that her eligibility cannot be denied in such circumstances based on failure to timely complete a renewal.

The Petitioner's confusion here was compounded by the agency when it requested a "renewal" of BC+ at the end of the BC+ Pregnant Woman eligibility period. If the agency's notice had made it clear that her BC+ Pregnant Woman ended on November 1, 2014 and if the Petitioner had been asked to submit a new application for regular BC+, it would be clear that she would not have been eligible for MA in November, 2014. However, the notices were not timely and adequate to advise the Petitioner that benefits would end effective November 1, 2014. The notice of October 17, 2014 specifically stated that the benefits would end on October 31, 2014 if she did not complete a timely renewal. She did complete a timely renewal. Therefore, I conclude the agency erred in denying eligibility for November, 2014 because timely and adequate notice of the termination of benefits was not provided.

CONCLUSIONS OF LAW

The Petitioner was eligible for BC+ in November, 2014.

THEREFORE, it is

ORDERED

That this matter is remanded to the agency to take all administrative steps necessary to restore the Petitioner's eligibility for BC+ for November, 2014. This action shall be completed by the agency within 10 days of the date of this decision. The Petitioner shall advise any medical providers who provided services to her in November, 2014 to re-submit their claims to the agency.

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 19th day of March, 2015

\sDebra Bursinger
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 March 19, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability