



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/169487

PRELIMINARY RECITALS

Pursuant to a petition filed October 14, 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 November 05, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the Petitioner's appeal is timely and, if so, whether the agency properly determined eligibility and premiums for BC+ for Petitioner and her children.

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. On December 30, 2014, the Petitioner submitted an application requesting BC+ benefits for herself and her children. In the application, the Petitioner requested that all agency notices be issued to her at the email address supplied by the Petitioner. On January 9, 2015, the agency

- issued a notice to the Petitioner at her address notifying her that notices issued to her email address could not be delivered and that notices would be issued to her mailing address until or unless she supplied a valid email address. Petitioner supplied a new email address. On January 19, 2015, the agency issued a notice to the Petitioner's mailing address that all notices would go to her new email address.
3. On February 6, 2015, the agency received a \$45 premium payment for January, 2015.
 4. On February 9, 2015, the agency issued a Notice of Decision to the Petitioner informing her that effective January 1, 2015 she was eligible for BC+ benefits with no premium and her children were eligible for BC+ benefits with a monthly premium of \$45. The notice informed her that eligibility and premium determinations were made based on gross household income of \$5,529.09 from Petitioner's job with [REDACTED]. The notice also informed her of the right to appeal that determination by filing a request for a hearing with the Division of Hearings and Appeals by March 27, 2015. This notice was issued to the Petitioner via email, per the Petitioner's request.
 5. On February 13, 2015, the agency received a \$45 premium payment for February, 2015.
 6. On February 16, 2015, the agency issued a Notice of Decision to the Petitioner informing her that her children would be dis-enrolled from BC+ on March 1, 2015 due to non-payment of premium. The notice also informed her of the right to appeal that determination by filing a request for a hearing with the Division of Hearings and Appeals by April 16, 2015. This notice was issued to the Petitioner via email, per the Petitioner's request.
 7. On April 16, 2015, the Petitioner contacted the agency to ask where to send BC+ premiums. Petitioner was advised to come to the agency.
 8. On June 4, 2015, the agency updated the Petitioner's case with new income information.
 9. On June 29, 2015, the agency issued a Notice of Decision to the Petitioner informing her that effective August 1, 2015, a premium of \$30/month was required for BC+ for her three minor children. She was also informed that she was eligible for BC+ with no monthly premium. The notice informed her that eligibility and premium determinations were made based on gross household income of \$5,363.29 from Petitioner's job with [REDACTED]. The notice also informed her of the right to appeal that determination by filing a request for a hearing with the Division of Hearings and Appeals by September 16, 2015. This notice was issued to the Petitioner via email, per the Petitioner's request.
 10. On July 27, 2015, the agency issued a Notice of Decision to the Petitioner informing her that premiums of \$30/month were due for the children for June, 2015 and September, 2015. It also informed her that she was eligible for BC+ benefits for June and September, 2015 with no monthly premium. She was also informed that she was eligible for BC+ with no monthly premium. The notice informed her that eligibility and premium determinations were made based on gross household income of \$5,363.29 from Petitioner's job with [REDACTED]. The notice also informed her of the right to appeal that determination by filing a request for a hearing with the Division of Hearings and Appeals by September 11, 2015. This notice was issued to the Petitioner via email, per the Petitioner's request.
 11. On August 6, 2015, the agency attempted to contact the Petitioner regarding "returned mail." A message was left for the Petitioner. On August 7, 2015, the agency issued a notice to the Petitioner's mailing address asking the Petitioner to verify her email address.
 12. On September 22, 2015, the Petitioner completed a BC+ renewal. She reported the end of her pregnancy on August 11, 2015. The Petitioner reported her employment with [REDACTED] and provided pay statements for September 2, 2015 and September 16, 2015 reporting that she worked 80 hours/pay period at \$24.28/hour. The Petitioner reported that she has three tax dependents (her three minor children). She reported receiving child support for two children of

\$159.53/month for each child. Petitioner also reported a new email address and requested that all notices be sent to her via email.

13. On September 23, 2015, the agency issued a Notice of Decision to the Petitioner informing her that BC+ benefits would end effective November 1, 2015 for Petitioner because she is no longer pregnant and her income exceeds program limits. She was further informed that BC+ benefits would end for the children effective November 1, 2015 due to non-payment of premiums. The children were placed in a 3 month restrictive re-enrollment beginning September 1, 2015 and ending November 30, 2015.
14. On October 14, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

A hearing officer can only rule on the merits of a case if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of an action by a county agency concerning Medicaid, including BC+, must be filed within 45 days of the date of the action. Wis. Stats. § 49.45(5).

In this case, the Petitioner alleges that she did not receive the agency notices regarding the monthly premium for the children. She disputes the agency's determination regarding the children's premiums based on her income as calculated by the agency. She further disputes the discontinuance of BC+ benefits for the children based on non-payment of the premium because she alleges she never received any notices that she owed a premium.

At the hearing, the Petitioner testified that she obtained a new email address in June, 2015. She did not report this change in email address to the agency. Case comments indicate that there was returned mail in or about August 6, 2015 but the case comments are not specific with regard to what mail was returned. In August, the agency attempted to verify the Petitioner's email address. It was not until September 22, 2015 that the Petitioner reported a change in her email address.

Based on the evidence, I conclude that the agency properly issued the February, June and July, 2015 notices of eligibility and premiums to the Petitioner via email as requested by the Petitioner. If the Petitioner did not receive the notices, it was due to her failure to properly check her email account or failure to report a change in email address to the agency in a timely manner. Because the Petitioner's appeal was not filed until October, 2015, I conclude that her appeal as to the agency's determination regarding her income and premiums for the children is untimely and I am unable to rule on the merits of those issues.

With regard to the issue of the agency's action in discontinuing the children's benefits due to non-payment of the premium effective November 1, 2015, I further conclude that the agency's action was proper. The Petitioner failed to properly update her address for premium notices. If she was unaware of the premium being due, it was a result of her failure to provide a proper address. Further, the Petitioner's testimony that she was not aware that a premium was owed is not credible based on her payment of premiums for January and February, 2015. Also, the Petitioner contacted the agency in April, 2015 to ask about payment of the premiums. I conclude that the Petitioner was aware that a monthly premium was due for the children. The agency properly discontinued BC+ benefits effective November 1, 2015 due to non-payment of the premiums.

CONCLUSIONS OF LAW

The Petitioner's appeal was not timely with regard to the agency's determination of eligibility and premium amounts.

The agency properly discontinued BC+ benefits effective November 1, 2015 due to non-payment of the premiums.

THEREFORE, it is

ORDERED

That 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.

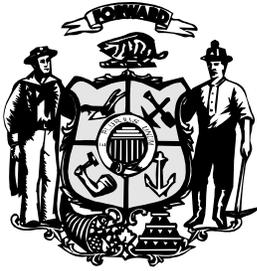
APPEAL TO COURT

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 Milwaukee,
Wisconsin, this 4th day of January, 2016

\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 January 4, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability