



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: BCS -174195

PRELIMINARY RECITALS

Pursuant to a petition filed May 6, 2016, under Wis. Stat., §49.45(5)(a), to review a decision by the Jefferson County Dept. of Human Services regarding Medical Assistance (MA), a hearing was held on July 20, 2016, by telephone. A hearing set for June 21, 2106 was rescheduled at the petitioner's request.

The issue for determination is whether a BadgerCare Plus (BC+) premium can be refunded.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI53703

By: [REDACTED]
Jefferson County Dept. of Human Services
874 Collins Rd.
Jefferson, WI 53549

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Jefferson County.
2. Petitioner requested BC+ for her family (two adults and one child) on November 16, 2016. On her application she asked that notices be sent to her on-line.

3. The initial application was denied in early January due to verification problems. The notice sent on January 4, 2016 said that petitioner and her husband were ineligible for November through February for reasons that included being over income, but their daughter was listed as being ineligible only through the end of November, 2015. It did not say that she was eligible. BC+ was not opened at that time.
4. On March 3, 2016 petitioner contacted a county worker. The worker checked the case history and decided that petitioner's daughter should have been eligible. He left a voice mail with petitioner telling her that there was eligibility but petitioner needed to pay three months of premiums. It is not known if the worker said in the voice mail that only the child was eligible. Petitioner paid the \$246 in premiums.
5. On March 22, 2016 the county sent petitioner a notice saying that her daughter was eligible for BC+ retroactive to December 1, 2015, with a \$68 monthly premium (petitioner had been told the monthly premium was \$82). Petitioner then contacted the agency because she had been under the impression that the premium was for all three family members. She asked that her daughter's MA be closed and that the premiums be refunded. She eventually filed this appeal.

DISCUSSION

BC+ is an expansion of the Wisconsin Medical Assistance program designed to provide coverage to children under 19 and their caretakers. Wis. Admin. Code, §DHS 103.03; BC+ Handbook, Appendix 1.1. Recipients must pay a monthly premium based upon income. Prior to April 1, 2014, the income limit for BC+ was 200% of the FPL. State law changed effective April 1, 2014. As of that date the limit for caretaker parents was reduced to 100% of the FPL, which, for a three-person household, is \$1,674.17. See Wis. Stat., §49.471(4)(a)4.b for the new law, and the BC+ Handbook, Appendix 50.1 for the limit. The income limit for a child is much higher – \$5,122.96 for a child in a three-person household. Petitioner's household income was \$4,824, making the child eligible with a premium but the adults ineligible.

The issue is whether I will order the Department to refund the three-month premium paid by petitioner. I conclude that it should be refunded. First, I note that after the hearing I checked petitioner's computer notice history and case notes as they were not provided with the exhibits. Only the January 4 notice was provided, and because I was puzzled that it denied BC+ entirely, I decided to review the notice history further.

Prior to being told that she had to pay a premium, petitioner received no notice of which family members were eligible for BC+. On January 4 the notice said that BC+ was denied. The next eligibility notice issued was on March 22, 2016, after petitioner was told verbally to pay the premiums and after she paid them. ██████ attributed the problem to petitioner asking for notices to be sent on-line, but that actually was not the problem. The problem was the miscommunication in the verbal voice mail discussion about the need to pay the premiums and who was eligible for the program.

There is statement in the March 3 case note that a manual request for the premiums would be sent, but I could not find a copy of the manual notice in any system file including the electronic case file. My guess is that it was simply a bill for the premiums without any specifics as to which family member or members the premiums covered.

I conclude that the premiums should be refunded because petitioner was not informed adequately about which family members were eligible for the BC+ covered by the premiums. Had she been informed that the premiums covered only the child and not the entire family, she could have chosen to forego payment of them.

CONCLUSIONS OF LAW

The \$246 BC+ premiums paid by petitioner for the period January through March, 2016 should be refunded because the agency did not inform petitioner that only her daughter, and not the entire family, was covered by the premiums.

THEREFORE, it is

ORDERED

That the matter be remanded to the county with instructions to take the necessary action to refund petitioner the \$246 BC+ premiums she paid in March, 2016 for coverage of her daughter. The county shall do so 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, **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 27th day of July, 2016

\s _____
Brian 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 July 27, 2016.

Jefferson County Department of Human Services
Division of Health Care Access and Accountability