



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MNP - 174670

PRELIMINARY RECITALS

Pursuant to a petition filed on May 27, 2016, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability regarding Medical Assistance (MA), a hearing was held on August 3, 2016, by telephone. A hearing set for July 12, 2016 was rescheduled at the petitioner's request so that an interpreter could be available.

The issue for determination is whether the Department correctly billed petitioner \$115 for a BadgerCare Plus (BC+) premium.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: No appearance

Division of Health Care Access and Accountability
PO Box 309
Madison, WI 53701-0309

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 and her family receive BC+. On March 17, 2016, the agency sent the family a notice telling them that they had to pay a \$115 BC+ premium for April. The reason was because petitioner's husband received temporary employment income from [REDACTED]

3. Petitioner paid the premium after receiving a bill. On March 31 the agency sent a new notice telling the family that for May, 2016, there would be no BC+ premium because the [REDACTED] income ended.

DISCUSSION

In her appeal letter and at the hearing petitioner explained that she believed she was charged \$115 for surgery to her hand that took place in January, 2016. After receiving the copies of the information, I did some research. I discovered that the \$115 was not paid for the surgery in January but instead was paid for a monthly BC+ premium in April.

BC+ is an expansion of the Wisconsin Medical Assistance program designed to provide coverage to Wisconsin families living in poverty. Wis. Admin. Code, §DHS 103.03; BC+ Handbook, Appendix 1.1. Recipients must pay a monthly premium if income is above a certain level. For adults the level is 100% of the federal poverty level.

For April, 2016, the agency determined that petitioner and her husband had to pay a BC+ premium because of increased income from the temporary job. That income was removed for May, so petitioner had to pay only one premium. The \$115 was not for petitioner's hand surgery; it was for a BC+ premium. That is why the premium was paid and mailed to the Badger Care Plus program. If it had been a payment for the surgery it would have been paid to the doctor's office.

If petitioner believes that the premium should not have been required, she would have had to file the appeal by May 17, 2016. An appeal of a negative action concerning MA must be filed within 45 days of the action. Wis. Stat. §49.45(5)(a); Wis. Admin. Code, §HA 3.05(3)(a). Language concerning the right to appeal and the time limit is included on all department notices. If an appeal is untimely the Division of Hearings and Appeals lacks jurisdiction to consider the petitioner's position on the merits. Petitioner's appeal was filed on May 27, 2016.

I must conclude that the BadgerCare program correctly billed petitioner and her husband for the \$115 premium. As noted, there were no more premiums after the one paid in April.

CONCLUSIONS OF LAW

The \$115 payment made by petitioner to the BC+ program in April, 2016 was not due to her surgery in January, 2016, but was for a BC+ premium for April, 2016.

THEREFORE, it is

ORDERED

That the petition for review is hereby 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, **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 5th day of August, 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 August 5, 2016.

Division of Health Care Access and Accountability