FH
[redacted]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[redacted]

DECISION
Case #: BCS - 176837

PRELIMINARY RECITALS

Pursuant to a petition filed on September 20, 2016, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services regarding Medical Assistance (MA), a hearing was held on November 15, 2016, by telephone. At hearing, petitioner was assisted by Spanish-language interpreter [redacted] whose services were arranged by the Department.

The issue for determination is whether the Department erred in its automatic withdrawal of premium payments from petitioner's bank account in the months of June, July, August and September 2016.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[redacted]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703
By: [redacted]
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:
John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [redacted]) is a resident of Milwaukee County.

2. On June 22, 2015 the petitioner submitted a BC+ Premium Electronic Funds Transfer authorization form. The form was signed by petitioner and included her account information from Waukesha State Bank.
3. In early May 2016 the petitioner's BC+ case was reviewed for household income and the case began requiring a premium due to being placed in an extension status.
4. In May 2016 the Department withdrew via EFT the monthly premium amount of $208.
5. On 5/24/16 the petitioner called the agency and stated that she received a letter indicating that she would be required to pay a $455 monthly premium. She stated that she could not pay this amount and that she wished to obtain her own insurance elsewhere.
6. In June, July, and August 2016 the Department withdrew via EFT the monthly premium amount of $455. Based on petitioner's bank statements, it took her until September to realize that the EFT amount was for the BC+ premium.
7. Petitioner filed a request for hearing on September 20, 2016.
8. On 9/29/16 the Department issued a check back to petitioner in the amount of $455. There is no indication on the check the reason for the issuance/refund.

DISCUSSION

Petitioner was credible at hearing that she informed the agency that she could not afford the $455 premium. The case comments indicate the call to the agency on 5/24 along with the clear entry that petitioner would be seeking her own private insurance. There was no testimony as to why BC+ was not closed. It was reasonable for petitioner to understand that BC+ would be closed when she informed the agency that she could not afford the premium and would instead obtain other insurance. It is also reasonable for petitioner to not suspect that the Department would automatically withdraw the sum of $455 after petitioner stated that she could not pay that amount. Petitioner was unaware that this amount would be automatically withdrawn via EFT. The agency offered no explanation and this appears to me to be an agency error.

CONCLUSIONS OF LAW

BC+ should have been closed as of May 31, 2016.

THEREFORE, it is **ORDERED**

That this matter is remanded to the agency with instruction to terminate BC+ coverage effective 5/31/16, and to refund any premiums paid for subsequent periods if they have not already been refunded. These actions must be completed 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 6th day of January, 2017

\s_____
John P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals

State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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Madison, WI 53705-5400

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The preceding decision was sent to the following parties on January 6, 2017.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability