



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/171828

PRELIMINARY RECITALS

Pursuant to a petition filed February 03, 2016, under Wis. Stat. § 49.45(5)(a), to review a decision by the Kenosha County Human Service Department in regard to Medical Assistance, a hearing was held on March 17, 2016, at Racine, Wisconsin.

The issue for determination is whether the agency correctly ended the Petitioner's BadgerCare+ benefits on March 1, 2016.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: [Redacted], Lead Economic Support Specialist
Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Racine County.
2. On January 20, 2016, the agency received, as returned mail, a notice to complete Six Month Report Form that it sent to the Petitioner at an address on [Redacted] (Exhibit 7)

3. On January 22, 2016, the agency sent the Petitioner a Notice of Proof Needed, requesting verification of her Wisconsin residence. The agency set a due date of February 1, 2016. (Exhibits 7 and 8)
4. The notice of proof needed was sent to the Petitioner at an address on [REDACTED], which was the last address the Petitioner provided to the KIDS database (child support enforcement). (Exhibit 5)
5. On February 8, 2016, the agency sent the Petitioner a notice advising her that her BadgerCare+ benefits would be ending effective March 1, 2016, because she did not provide the required proof. The notice was sent to the [REDACTED] address. (Exhibit 9)
6. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on February 3, 2016. (Exhibit 1)

DISCUSSION

“Verification means to establish the accuracy of verbal or written statements made by, or about a group's circumstances. Case files or case comments must include documentation for any information required to be verified to determine eligibility or benefit levels.” *BadgerCare+Handbook (BEH) §9.1* Proof of certain information is required to determine eligibility for BadgerCare+. *BEH §9.1* Items that must be verified are categorized as information that it is mandatory to verify and information that is questionable.

Items that it is mandatory to verify are:

1. Social Security Number
2. Citizenship and Identity
3. Immigrant Status
4. Pregnancy, if eligibility is based on the pregnancy, although as of January 1, 2014, it will no longer be necessary to verify pregnancy.
5. Medical Expenses (for deductibles only)
6. Documentation for Power of Attorney and Guardianship
7. Migrant worker's (eligibility in another state)
8. Income
9. Health Insurance Access
10. Health Insurance Coverage
11. Family Re-unification plan for Child Welfare Parents
12. The placement status of a FFCY on his/her 18th birthday
13. Tribal membership or Native American Descent
14. Pre-tax Deductions
15. MAGI Tax Deductions

BEH §9.9

Information is questionable for BC+ when:

1. There are inconsistencies in the group's oral or written statements.
2. There are inconsistencies between the group's claims and collateral contacts, documents, or prior records.
3. The member or his/her representative is unsure of the accuracy of his/her own statements.
4. The member has been convicted of Medicaid or BC+ fraud or has legally acknowledged his/her guilt of member fraud. Do not require a member to provide verification for the sole reason that they have acknowledged or been convicted of fraud in any other public assistance or employment program.

5. The member is a minor who reports that s/he is living alone. This does not apply to minors applying solely for Family Planning Services.
6. The information provided is unclear or vague.

BEH §9.10

“Except for verification of access to employer sponsored health insurance, the member has primary responsibility for providing verification and resolving questionable information. However, the income maintenance worker must use all available data exchanges to verify information rather than requiring the [applicant](#) to provide it.” *BEH §9.8*

BadgerCare+ benefits may be reduced when all of the following are true:

1. The member has the power to produce the verification.
2. The time allowed to produce the verification has passed.
3. The member has been given adequate notice of the verification required.
4. The agency needs the requested verification to determine current eligibility.

BEH §9.11.4

Current benefits may not be denied or reduced because a member does not verify some past circumstance not affecting current eligibility. *Id.*

In the case at hand, the agency was requesting verification of Petitioner’s Wisconsin residency. Presumably, the agency considered this questionable information, since what Petitioner reported about her residence was not consistent with what the post office (a collateral contact) reported, by returning the notice regarding Petitioner’s FoodShare Six Month Report Form. (*See BEH §9.10*)

Given that the Petitioner was able to file an appeal, she certainly had the ability to produce the requested verification. The time allowed for producing the verification had passed. The agency gave the Petitioner adequate notice of the required verification, having sent it to Petitioner’s last known address and having given Petitioner 10 days to produce the verification. Per BEH §3.1, a person must be a Wisconsin resident in order to be eligible for BadgerCare+. As such verification of Petitioner’s Wisconsin residency was required to determine Petitioner’s eligibility for the program. Based upon all of the foregoing, it is found that the agency correctly ended the Petitioner’s BadgerCare+ benefits per *BEH §9.11.4*

The Petitioner argues that she should be shown leniency, because she didn’t receive any of the aforementioned notices.

The agency sent the December 2015 notice regarding the SMRF to the Petitioner’s last known address on [REDACTED]. The Petitioner testified that she moved from the [REDACTED] on September 2015 and stayed at her mother’s address on [REDACTED] for about three weeks. She then relied on General Delivery, until she moved into her current residence in 2016. The Petitioner testified that she never reported her changes in address to the agency.

Given that Petitioner was able to file an appeal, she certainly had the ability to contact the agency and update her address. She never did, so she cannot complain now, about not receiving her notices. The agency reasonably relied upon the Petitioner’s most recent address filing with child support enforcement,

which the Petitioner indicated was the correct address for her mother’s residence, where she resided for a time.

If Petitioner wants BadgerCare+ benefits, she will need to file a new application, and request a backdate of benefits.

CONCLUSIONS OF LAW

The agency correctly ended the Petitioner’s BadgerCare+ benefits on March 1, 2016.

THEREFORE, it is ORDERED

That the petition 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 28th day of March, 2016

\sMayumi M. Ishii
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 28, 2016.

Kenosha County Human Service Department
Division of Health Care Access and Accountability