



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: BCS - 174715

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on May 26, 2016, under Wis. Stat. § 49.45(5)(a), to review a decision by the Kenosha County Human Service Department regarding Medical Assistance (MA), a hearing was held on June 22, 2016, by telephone.

The issues for determination are whether Petitioner's appeal is timely as to a November 2015 case closure and whether the agency correctly denied a subsequent application for Medicaid for failing to verify.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

;

Respondent:

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

By: [REDACTED]

Kenosha County Human Service Department  
8600 Sheridan Road  
Kenosha, WI 53143

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. Petitioner's BadgerCare+ eligibility was subject to renewal in November 2015. A request for verification of wages was sent to Petitioner by the agency on November 25, 2015. Petitioner had until December 14, 2015 to submit that information. It was not received and the agency sent

Petitioner a December 15, 2015 notice that indicated that her renewal of BadgerCare+ had been denied for lack of verification. The appeal deadline was noted to be February 1, 2016.

3. Petitioner reapplied for BadgerCare+ on March 30, 2016 seeking 3 months of backdating. Verification of wages for the month of January 2016 was requested and due by April 28, 2016. Wage verification for that month was not received and the application denied as to January 2016 with a notice of denial dated April 29, 2016.
4. This appeal was filed on May 26, 2016. Petitioner seeks backdating of BadgerCare+ benefits to January 2016 as she has medical bills for that month.
5. All notices here were sent to Petitioner at the above address.

### **DISCUSSION**

In order for the Division of Hearings and Appeals to have authority to make a determination on the merits of a matter it must have authority to do so. It does not have authority where an appeal is untimely. A timely hearing request concerning Medical Assistance matters must be filed within 45 days of the notice of the county agency decision. *§49.45(5)(a), Wis. Stats.* Here it is apparent that the hearing was requested after the January 5, 2016 appeal filing deadline for the denial of the November 2015 Medicaid application. Thus the appeal is untimely as to that issue. It is, however, timely as to the denial of the February 2016 application and the Division of Hearings and Appeals without authority to act.

As for the denial for failure to verify - certain items must be verified by an agency as part of BadgerCare+ application processing. Income is one of those mandatory items. *BadgerCare+ Eligibility Handbook (BEH), §9.9.* And, it is noted that benefits may be backdated up to the first day of the third month prior to the month of application. *BEH, §25.8.1.*

A benefit application is denied if verification is not provided so long as adequate notice of the request for verification is provided and a person has the power to produce it:

#### 9.11.4 Negative Actions

Deny or reduce benefits 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. You need the requested verification to determine current eligibility. Do not deny current eligibility because a member does not verify some past circumstance not affecting current eligibility.

*BEH, §9.11.4.*

I am concluding that the agency correctly denied Petitioner's request for BadgerCare+ benefits for January 2016 for failing to verify. Finally, I note that there is a provision in the BEH that indicates that backdating may be requested at any time. *BEH, §25.8.1.* Petitioner may make a request but verification of January 2016 wages is required and Division of Hearings and Appeals jurisdiction if the request is denied is not assured.

### **CONCLUSIONS OF LAW**

1. That this appeal is untimely as to the December 15, 2015 denial of renewal of Petitioner's BadgerCare+ application.

2. That the agency correctly denied Petitioner's March 2016 BadgerCare+ application because of a lack of verification.

**THEREFORE, it is**

**ORDERED**

That this 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, **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 15th day of August, 2016

\s \_\_\_\_\_  
David D. Fleming  
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 15, 2016.

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