

3. On February 16, 2016 the petitioner reported that he had a new job.
4. On February 17, 2016 the agency sent the petitioner a notice stating that in order to get or keep BC Plus coverage he had to provide verification of his income. Examples of verification included were “pay stubs from the last 30 days,” or the employment verification of earnings form, which was enclosed. The verification due date was February 26, 2016.
5. February 26, 2016 was a Friday. The petitioner received his first paystub from his new job that Friday. He submitted the paystub to the agency on Monday, February 29, 2016.
6. The paystub showed that the petitioner earned \$570.50 from February 7, 2016 through February 20, 2016.
7. The petitioner’s case continued to pend for further verification.
8. On April 18, 2016 the petitioner submitted an employment verification of earnings form showing that he was eligible for BC Plus benefits extension benefits.
9. On May 3, 2016 the agency sent the petitioner a notice stating that he was ineligible for BC Plus benefits effective May 1, 2016 because his income was over the program limit.
10. On June 20, 2016 the Division of Hearings and Appeals received the petitioner’s Request for Fair Hearing.

DISCUSSION

When a household’s income increases from below 100% of the federal poverty level to above that amount, those already receiving benefits remain eligible for another year under a BadgerCare extension, regardless of their income. *BadgerCare Plus Handbook*, § 18.1. The BadgerCare Plus policy in the section specifically pertaining to “losing an extension” states that a BadgerCare Plus recipient loses an extension if “[s]/he fails to provide verification of income and at least one parent/caretaker in the extension AG [assistance group] is not disabled, a tribal member, or pregnant.” *BadgerCare Plus Handbook*, § 18.5.1.4. An earlier section states that “if a case closes for lack of...verification and [the household] then later reapplies, they would not be eligible for the Extension.” *BadgerCare Plus Handbook*, §18.1.1.

A lack of verification occurs when a recipient does not submit the verification within the timelines set by medical assistance law and the local agency. Medicaid applicants must verify relevant information within 30 days of their application date or within 10 days of when the information is requested, whichever is later. Wis. Admin. Code, § DHS 102.03(1) and (3); *Medicaid Eligibility Handbook*, § 20.7.1.1.

In this case the notice that the agency sent the petitioner stated that he had until February 26, 2016 to provide the necessary verification. The problem with this due date is that the letter is dated February 17, 2016. Thus, the agency’s deadline did not allow the petitioner 10 days to provide the required verification. The petitioner had until February 27, 2016 to provide the required verification. This was a Saturday. It was impossible for him to provide verification that day because the agency was closed. He provided the verification the very next business day. This is timely verification.

The remaining issue is whether the verification the petitioner provided on Monday, February 29, 2016 was complete. The notice stated that the petitioner had to provide verification of his income. Examples of verification included “pay stubs from the last 30 days,” or the employment verification of earnings form, which was enclosed. The petitioner did not have pay stubs from the last 30 days because he had only received one pay check from his new employer. He provided the one pay stub he had received. The

agency still pended the case for further verification. The petitioner then submitted the employment verification of earnings form, and then the agency denied BC Plus coverage because the verification was not timely to qualify him for BC Plus extension. The income verified was too high for the BC Plus standard plan.

I find this sequence of events troubling. The petitioner was ashamed that he was receiving government assistance. He did not want to have his new employer complete the employment verification of earnings form. He thus submitted his paystub. The agency did not find this sufficient. The agency never communicated with the petitioner that he would be denied the BC Plus extension. Rather, they allowed him to complete the verification process, and then denied him. This is not a case of the petitioner hiding income or failing to report income. The petitioner is attempting to work with the agency to the best of his ability in order to provide them the needed verification.

Policy specifically directs the agency to “avoid over-verification.” *Medicaid Eligibility Handbook*, § 20.1.4. The agency is further instructed to “assist the member in obtaining verification if he or she requests help or has difficulty in obtaining it.” *Medicaid Eligibility Handbook*, § 20.1.4. The point of verification is to “establish the accuracy of verbal or written statements made about a group’s circumstances.” *Medicaid Eligibility Handbook*, § 20.1.1. Verification is not to be used as a sword to deny people who are otherwise eligible for public assistance benefits.

Upon receiving the one paystub the agency could have extended the verification deadline by 10 days, and sent a new notice to the petitioner stating that they needed a longer period of time to verify his income. Although they pended for this verification, they never provided an additional due date nor extended the deadline, and ultimately denied the petitioner BC Plus Extension in April for failing to provide the verification in February.

CONCLUSIONS OF LAW

The agency incorrectly denied the petitioner a BadgerCare (BC) Plus extension for failing to provide verification of his income

THEREFORE, it is

ORDERED

That this case is remanded to the agency with instructions to process the petitioner’s income verification as timely. The petitioner is thus eligible for the BC Plus Extension effective the date his BC Plus benefits ended. He should remain open for BC Plus with no gaps in coverage. If the petitioner owes a premium for the months he is eligible through BC Plus Extension, he is responsible for those premiums. The agency shall comply with this order within 10 days from the date of 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 Milwaukee,
Wisconsin, this 3rd day of August, 2016

\s _____
Corinne Balter
Administrative Law Judge
Division of Hearings and Appeals



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The preceding decision was sent to the following parties on August 3, 2016.

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