



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

BCS/142988

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 10, 2012, 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 October 02, 2012, at Kenosha, Wisconsin.

The issue for determination is whether the agency correctly determined petitioner's MA benefits effective with her July 2, 2012 application.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

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

By: Karen Mayer

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

Also present: Chevette Crockrom, petitioner's daughter

**ADMINISTRATIVE LAW JUDGE:**

Kelly Cochran  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.

2. B.W. is the petitioner's granddaughter and was reported as living with her mother on her mother's June 2012 six month review form.
3. On July 2, 2012 petitioner applied for MA, specifically, BadgerCare Plus (BC+), for herself and her granddaughter, B.W.
4. On July 3, 2012 B.W.'s mother reported B.W. was living with petitioner.
5. On July 9, 2012 the agency issued a notice of decision to petitioner stating that effective August 1, 2012 B.W. would be eligible for MA.
6. On July 31, 2012 the agency issued a notice of decision to petitioner stating that effective August 1, 2012 she would be eligible for MA.

### DISCUSSION

BadgerCare Plus (BC+) is a state/federal program that provides health coverage for Wisconsin families. BC+ replaces the former AFDC-Medicaid, Healthy Start and BadgerCare. Potential BC+ members include:

- Children under 19 years of age,
- Pregnant women,
- Parents and caretakers of children under 19,
- Young adults leaving out of home care (such as foster care),
- Parents and caretaker relatives whose children have been removed from the home and placed in out of home care.

See *BadgerCare + Eligibility Handbook (Handbook)*, §1.1, available online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm>.

In this case, petitioner seeks BC+ for herself as a caretaker of her granddaughter, and requests a backdate of eligibility prior to the month she applied. There was no dispute that petitioner qualifies as a caretaker relative under BC+ policy. See *Handbook* at §2.2.2. The relevant backdating policy states:

If certifying for retroactive BC+, do not go back further than the first of the month, three months prior to the application month. Certify the person for any backdate month in which s/he would have been eligible had s/he applied in that month. In the case of children, parents and caretakers, certify the person for any backdate month in which s/he would have been eligible had s/he applied in that month and in addition, family income was at or below the appropriate FPL level for their age group.

See *Handbook*, §25.8.1.

Petitioner only qualifies nonfinancially for BC+ here at the point she had her granddaughter in her care. The question is when that occurred. Petitioner applied on July 2, 2012. The child's mother reported the child in petitioner's care on July 3, 2012. However, the child's mother reported the child in *her* care prior to that time via her six-month reporting form (SMRF). There is no other information to show that the child lived with petitioner prior to her application date. The policy states:

For applications, changes that occur between the filing date (The filing date is the day a valid application/registration form is delivered to the appropriate Income Maintenance agency or the next business day if it is delivered after the agency's regularly scheduled business hours. The filing date on an ACCESS application is the date the application is electronically submitted or the next business day if submitted after 4:30 PM or on a

weekend or holiday. The filing date sets the begin date of benefits.) and confirmation date must be reported and considered in the eligibility determination. Changes that are reported after certification must be acted on in the same manner as any other reported change.

See *Handbook* §27.1.

Thus, based on policy, the agency should have included the change report of where the child was living along with petitioner's application, and found her nonfinancially eligible for July, at least as to being in a qualifying relationship as a caregiver relative. I will therefore remand the matter so that the agency can redetermine petitioner's eligibility (financial or otherwise) for July 1, 2012.

### **CONCLUSIONS OF LAW**

1. The agency failed to correctly determine petitioner's MA benefits effective with her July 2, 2012 application.
2. The agency should have included the change report of where the child was living effective July 3, 2012 along with petitioner's application.

**THEREFORE, it is**

**ORDERED**

That this matter is remanded to the agency with instructions that within 10 days of the date of this decision it redetermine petitioner's eligibility for MA for July 2012, finding that the child, B.W. was in her care in July. In the event that verification of information is necessary to complete the redetermination, I am adding 20 days to the time to comply with this Order so that verification can be properly accomplished. If no verification is necessary, the agency shall recertify her for the BadgerCare + effective July 1, 2012, if eligible. The agency shall issue a notice of decision to petitioner regarding this redetermination. In all other respects the petition for review herein is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 9th day of October, 2012

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Kelly Cochrane  
Administrative Law Judge  
Division of Hearings and Appeals

c: Department of Health Services - email  
Kenosha County Human Service Department, email - Kenosha County



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

David H. Schwarz  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 9, 2012.

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