



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

BCB/143637

PRELIMINARY RECITALS

Pursuant to a petition filed September 4, 2012, under Wis. Stat., §49.45(5)(a), to review a decision by Wood County Human Services to deny backdated Medical Assistance (MA), a hearing was held on December 19, 2012, by telephone. The hearing was a rehearing granted by the Division of Hearings and Appeals on November 16, 2012.

The issue for determination is whether MA can be backdated more than three months prior to the application.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Beulah Garcia
Wood County Human Services
P.O. Box 8095
Wisconsin Rapids, WI 54495 -8095

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Wood County.
2. Petitioner gave birth to a son on February 29, 2012. She applied for MA on July 31, 2012, seeking coverage back to February.
3. By a notice dated August 12, 2012, the agency granted BadgerCare Plus (BC+) Benchmark MA for petitioner's son effective July 1, 2012. Benefits prior to that date were denied because income

was over the limit for backdating, and because a backdate can only be for the three months prior to application.

DISCUSSION

Under state law MA can be granted in the month of application and the three months prior to the month of application. Wis. Stat., §49.46(1)(b); Wis. Admin. Code, §DHS 103.08(1). There is no discretion afforded either the county agency or the Division of Hearings and Appeals.

Petitioner did not apply for MA until July because she thought that the Veterans Administration would cover the birth of the child. She also was given poor advice by a private insurance agent regarding MA eligibility. Nevertheless, I cannot backdate MA to any period prior to April 1, 2012 because the MA application was not filed until July.

With regard to April through June, normally BC+ cannot be backdated. Wis. Admin. Code, §DHS 103.08(5). However, the Department instituted a policy of allowing backdated BC+ in certain cases. Specifically, a household can be eligible for up to three months prior to the application if income is below 133% of poverty. Infants can be eligible for the backdate if household income is below 300% of poverty. BC+ Handbook, Appendix 25.8.1. 300% of poverty for a three-person household is \$4,772.50. See Handbook, App. 50.1. Petitioner's household income is over \$5,000 per month, and thus there is no eligibility for backdating even to April 1, 2012.

CONCLUSIONS OF LAW

Petitioner's BC+ cannot be backdated to February, 2012 because her application was filed on July 31, 2012.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 served and 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, 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 Madison,
Wisconsin, this 21st day of December, 2012

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on December 21, 2012.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability