



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCS/143789

PRELIMINARY RECITALS

Pursuant to a petition filed September 11, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Pierce County Department of Human Services in regard to Medical Assistance, a hearing was held on October 23, 2012, at Ellsworth, Wisconsin.

The issue for determination is whether the county agency correctly ended the BadgerCare Plus eligibility for the petitioner's son because she failed to verify his citizenship and identity within 90 days.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Rebecca Mueller

Pierce County Department of Human Services
412 West Kinne Street
PO Box 670
Ellsworth, WI 54011

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien

Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Pierce County.

2. On March 27, 2012, the agency requested that the petitioner provide proof of citizenship and identity for all members of her family by June 28, 2012. The agency closed the case on July 31, 2012, because the petitioner's file did not contain adequate verification of these items.
3. The agency's notice to the petitioner indicated "We need proof of **Citizenship (or Nationality) and Identity for: [PETITIONER].**" [emphasis in original]. It stated that both citizenship and identity can be proved with a "U.S. Passport", "Certificate of U/S. Citizenship", "Certificate of Naturalization", or "Native American Tribal ID or document". It then listed the items that could be used to prove only citizenship (or nationality) or only identity. Citizenship or nationality can be proved with a "U.S. Birth Certificate", "U.S. Citizen ID Card", "U.S. Military record of service", "Hospital Record of U.S. birth", "Adoption papers showing U.S. birth", or "Life or Health insurance record showing birth in the U.S." Identity can be proved with a "Driver's License", "School ID card with photo", "ID card issued by federal, state or local government", "U.S. Military ID card, draft record of service or dependent ID", or "For children under 18: a signed 'Statement of Identity' form (if attached)."
4. The petitioner sent the agency a birth certificate for her son issued by the state of Minnesota showing that he was born in Russia and that his parents were the petitioner and her husband. The certificate indicates that it is not proof of United States citizenship. She later resubmitted this information without any additional information.
5. The petitioner was unable to provide the required verification of her son's citizenship and identity.

DISCUSSION

The petitioner applied for BadgerCare Plus for her family, which includes a 12-year-old adopted child born in Russia. On March 27, 2012, the agency requested that by June 28, 2012, she verify the citizenship and identity of each of her family. The request indicated that citizenship (or nationality) and identity can be proved with a "U.S. Passport", "Certificate of U/S. Citizenship", "Certificate of Naturalization", or "Native American Tribal ID or document". It then listed the items that can be used to prove only citizenship (or nationality) or only identity. Citizenship or nationality can be proved with a "U.S. Birth Certificate", "U.S. Citizen ID Card", "U.S. Military record of service", "Hospital Record of U.S. birth", "Adoption papers showing U.S. birth", or "Life or Health insurance record showing birth in the U.S." Identity can be proved with a "Driver's License", "School ID card with photo", "ID card issued by federal, state or local government", "U.S. Military ID card, draft record of service or dependent ID", or "For children under 18: a signed 'Statement of Identity' form (if attached)." The petitioner sent the agency a birth certificate for her son issued by the state of Minnesota showing that he was born in Russia and that his parents were the petitioner and her husband. The certificate states that it is not proof of United States citizenship. The petitioner resubmitted this same information when the agency told her that her verification was incomplete.

The authority for requiring verification in general is found in Wis. Admin. Code, § DHF 103.03(1), which requires agencies to deny medical assistance "when the applicant or recipient is able to produce required verifications but refuses or fails to do so." The regulation goes on to state that if "the applicant or recipient is not able to produce verifications, or requires assistance to do so, the agency may not deny assistance but shall proceed immediately to verify the data elements." Finally, Wis. Admin. Code, § DHF 103.03(3) requires verification of the following items:

- (a) Income;
- (b) Pregnancy, including a pregnancy which is the basis of nonfinancial eligibility under s. DHS 103.03 (1) (b) 1.;
- (c) Incapacitation which is the basis of nonfinancial eligibility, unless incapacitation is presumed to exist according to s. DHS 103.03 (1) (e);

- (d) Social security number;
- (e) Age;
- (f) Citizenship or alien status;
- (g) Disability, blindness, or both;
- (h) Assets; and
- (i) Residence.

Although the administrative code does not specifically require proof of both citizenship and identity, the *Federal Deficit Reduction Act of 2005* does. See *BadgerCare Plus Handbook*, § 4.2 and § 9.9. Unlike verification of most items, which must be done within 30 days or less (depending on when it was requested), recipients have 90 days to verify citizenship and identity, and can begin receiving benefits before doing so. However, if the citizenship and identity is not verified within 90 days by one of the specifically-allowed forms of documentation, benefits end. *Id.*

As was pointed out earlier, the agency notified the petitioner of the specific forms of documentation allowed to verify her children's citizenship and identity. There is little doubt she was confused by the requirement because she resubmitted her son's birth certificate—but nothing else—after being told that the agency did not have proper verification. It does not appear that the agency did anything wrong in this matter. Nevertheless, given the confusion obviously exhibited by the petitioner, along with the fact that she resubmitted information, I will find that she unable to properly verify her son's identity and citizenship and that his benefits must be reinstated. However, the petitioner still has a duty to provide the proper verification. I will give her 14 days from the date of this decision to do so. If she still does not provide this information, the agency may again discontinue her benefits, provided it gives her any help she requires to submit the verification.

CONCLUSIONS OF LAW

1. The petitioner was unable to provide the required verification of her son's citizenship and identity.
2. The petitioner's Russia-born son is entitled to receive BadgerCare Plus benefits.

THEREFORE, it is

ORDERED

That this matter is remanded to the county agency with instructions that within 10 days of the date of this decision it reinstate the petitioner's Russian -born son into the BadgerCare Plus program retroactive to the date his benefits ended. The agency may discontinue those benefits if the petitioner does not submit proper verification within 14 days of the date of this decision. The agency shall provide her with any help she needs to submit this information.

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, 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 26th day of October, 2012

Michael D. O'Brien
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 October 26, 2012.

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