



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCS/143973

PRELIMINARY RECITALS

Pursuant to a petition filed September 19, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Walworth County Department of Human Services in regard to Medical Assistance, a telephonic hearing was held on October 29, 2012, at Elkhorn, Wisconsin.

The issue for determination is whether there is any remaining issue in dispute regarding the petitioner's BadgerCare Plus benefits during the months of August and September, 2012.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Representative:

Attorney Brittany Zernicke
Klaus Law Office
5665 S. 108th Street
Hales Corners, WI 53130

Respondent:

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

By: Mia Anderson-Inman, ES Supervisor
Walworth County Department of Human Services
W4051 County Rd NN
Elkhorn, WI 53121-1006

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Walworth County. She is divorced from her ex-husband, [REDACTED]. The petitioner and her ex-husband have two children, but [REDACTED] is the only minor child.

2. The petitioner applied for BadgerCare (BC) Plus benefits on or about August 9, 2012.
3. The county agency sent a September 11, 2012 Notice of Decision to the petitioner indicating that her BadgerCare Plus application was denied due to non-financial ineligibility because there was no minor child in her home to create 40% custodial care of the minor child ([REDACTED]).
4. During the October 29, 2012 hearing, the petitioner and the county agency stipulated to the following: a) the petitioner was eligible for BadgerCare (BC) Plus benefits during the month of August, 2012 because she did have custody of [REDACTED] at least 40% of the time during that month; b) the petitioner was not eligible for BC Plus during the month of September, 2012 because she did not have custody of [REDACTED] at least 40% of the time during that month; and c) the parties agreed there is no longer any remaining issue in dispute regarding petitioner 's BC Plus benefits during the months of August or September, 2012.

CONCLUSIONS OF LAW

The parties agreed that there is no longer any remaining issue in dispute regarding the petitioner's BadgerCare Plus benefits during the months of August and September, 2012.

THEREFORE, it is

ORDERED

The matter is remanded to the county agency with instructions to certify the petitioner as eligible for BadgerCare Plus benefits for the month of August, 2012, within 10 days of the date of this Decision. In all other respects, the petition for review 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 30th day of October, 2012

Gary M. Wolkstein
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 30, 2012.

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