



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

FPO/144709

PRELIMINARY RECITALS

Pursuant to a petition filed October 22, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Wisconsin Department of Health Services' Milwaukee Enrollment Services in regard to Family Planning Waiver services, a hearing was held on December 18, 2012, at Milwaukee, Wisconsin. The hearing record was held open for submission of a medical record by the petitioner, which was received.

The issue for determination is whether the Department correctly discontinued the petitioner's Family Planning benefit effective September 1, 2012.

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: Mary Hartung, I.M. Spec.-Advanced
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

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

2. The Family Planning (FP) services program provides limited benefits for family planning services for women and men with income at or below 300% of the Federal Poverty Level (FPL) and who are not eligible for other forms of Medicaid. The petitioner's FP case was due for a periodic review in August 2012. The petitioner began that review process in August, and on August 24, October 3 and October 5, 2012, the Department issued written verification requests to the petitioner for earnings verification. Exhibits 6, 7. That verification was due by October 31, 2012, and the petitioner did not submit the verification.
3. On August 17, 2012, the Department issued written notice to the petitioner advising that her FS case would close September 1, 2012, if she did not complete all aspects of her review. See, Exhibit 5. On November 5, 2012, the Department issued written notice to the petitioner advising that her FP case would remain closed effective November 1, 2012. See, Exhibit 8.
4. At hearing, the petitioner expressed a preference for receiving BadgerCare Plus Core (BCP-C) Plan, which is understandable, given its better coverage. The petitioner, age 22, is not blind, disabled, or a parent of a minor child. Post-hearing, the Department representative advised that the petitioner must have applied for BCP-C in 2011, because she was added to the waiting list effective September 14, 2011. See, Notice dated 9/14/2011, Exhibit 9. There is a 45-day limit for appealing from BCP-C and all other Medicaid denials.

DISCUSSION

The Family Planning (FP) services program provides limited benefits for family planning services for women and men with income at or below 300% of the Federal Poverty Level (FPL) and who are not eligible for other forms of Medicaid. Like all Medicaid-related programs, a participant's eligibility is periodically reviewed. As part of that review, the Department must verify that the recipient's income is below the appropriate FPL. Verification was repeatedly requested here, and not supplied. Therefore, the Department correctly closed the FP case. *BadgerCare Eligibility Handbook (BCPEH)*, § 40.10. The petitioner may re-apply for this benefit at any time.

The petitioner's hearing request is not timely for the purposes of challenging her 2011 BCP -C denial. The petitioner made requests for health care coverage on August 4, 2011, and again in September 2011. Nonetheless, this information is included as a courtesy. BCP-C is for non-disabled, childless adults in Wisconsin with income under 200% of the Federal Poverty Level. There is currently a waiting list for new BCP-C applicants:

43.10 CORE PLAN ENROLLMENT CAP (WAITLIST)

Core Plan applications received after 5:00 P.M. on October 9, 2009, will not be processed.

A Waitlist was established on October 9, 2009 because the total number of applications received is greater than the amount of funding available.

See, *BCP Eligibility Handbook*, § 43.10, at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm>.

CONCLUSIONS OF LAW

1. The Department correctly discontinued the petitioner's FP benefits effective September 1, 2012, due to failure to supply requested income verification.
2. The petitioner's appeal is untimely with respect to being placed on the BCP -C waiting list in 2011.

THEREFORE, it is

ORDERED

That the petition 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 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 20th day of December, 2012

\sNancy J. Gagnon
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 20, 2012.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability