



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCS/144979

PRELIMINARY RECITALS

Pursuant to a petition filed October 30, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Oneida County Department of Social Services ["County"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on January 11, 2013. At petitioner's request Hearings scheduled for December 17, 2012 and November 29, 2012 were rescheduled. The Hearing for this matter was held at the same time as the Hearing for the following 2 closely related matters concerning the same petitioner: FOO-144980; and, CTS-144981.

The issue for determination is whether petitioner's 18-year-old son is eligible for BadgerCare Plus MA ["BC+"] on petitioner's case.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Amy Mayo, Support Program Supervisor
Gina Hart, ESS

Oneida County Department of Social Services
Oneida Avenue
PO Box 400
Rhineland, WI 54501

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Oneida County.
2. Petitioner has an 18-year-old son ["DT"]; DT does not live with petitioner.
3. The County determined that DT is not eligible for BC+ on petitioner's case because he does not live with petitioner.

DISCUSSION

For purpose of BC+ the law provides that in order for a parent to be included in the same case as a child the child must live with the parent. Wis. Admin. Code § DHS 103.03(1)(f)1. (December 2008); *BadgerCare + Eligibility Handbook* ["BC+ Handbook"] 2.1.3 & 2.2.1; See also, Wis. Stat. § 49.471(1)(b) (2009-10); Wis. Admin. Code § DHS 103.04(7)(a) (December 2008).

The decision in this matter must be based on a preponderance of the credible evidence. Wis. Admin. Code § HA 3.09(4) (September 2001). The evidence in the record of this matter is that DT does not live with petitioner. The evidence is that DT lives in [REDACTED] and attends school in [REDACTED]. This is supported by verification from the school system, statements made by other persons who do live with petitioner, and by a home visit to petitioner's home by a Social Worker.

Petitioner acknowledges that DT attends school in [REDACTED]. However, she claims that DT still lived with her in [REDACTED] and continues to live with her in [REDACTED]. The only evidence petitioner offers to support this, aside from her own testimony, are 3 pieces of mail addressed to DT at petitioner's [REDACTED]. This is not convincing and petitioner is not credible.

Based on the above, DT is not eligible for BC+ on petitioner's case. However, as the County points out, DT may apply for BC+ on his own.

CONCLUSIONS OF LAW

For the reason discussed above, petitioner's 18-year-old son (DT) is not eligible for BC+ on petitioner's case.

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 24th day of January, 2013

\sSean P. Maloney
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 January 24, 2013.

Oneida County Department of Social Services
Division of Health Care Access and Accountability