



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCS/145226

PRELIMINARY RECITALS

Pursuant to a petition filed November 9, 2012, under Wis. Stat., §49.45(5)(a), to review a decision by the Marathon County Dept. of Social Services to discontinue Medical Assistance (MA), a hearing was held on January 3, 2013, by telephone.

The issue for determination is whether petitioner can be eligible for BadgerCare Plus (BC+) MA if she is not related to the child for whom she holds guardianship.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Nu Vue

Marathon County Dept. of Social Services
400 E. Thomas Street
Wausau, WI 54403

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Marathon County.
2. Petitioner is the legal guardian of a child C.G. She is not related to C.G. Petitioner formerly resided in Milwaukee County and received BC+ while there.
3. Petitioner moved to Marathon County and reported the change in September, 2012. After the case was transferred to Marathon the new worker noted that the child is unrelated to petitioner, and also the child's mother was initially reported to be on the case. The county ended BC+ for

petitioner effective December 1, 2012. Petitioner eventually reported that the mother had a different address, but BC+ did not reopen for her because she was not considered a qualifying caretaker of the child.

DISCUSSION

To be eligible for BC+, a person must be under age 19, a caretaker relative living with a child, or the spouse of a caretaker relative. Wis. Admin. Code, §DHS 103.03(1)(f)1; the code uses the term “custodial parent,” but the Department has extended eligibility to other relatives. The Department’s BC+ Handbook notes that an adult can be eligible for BC+ if she has a qualifying relationship, defined as:

1. Stepfather or stepmother.
2. Natural full brother or sister, legally adopted, half- or stepbrother or sister.
3. Grandmother or grandfather, aunt or uncle, first cousin, nephew or niece, or any preceding generation denoted by the prefix grand-, great-, or great-great, and including those through adoption.
4. Spouse of any of the above even after the marriage ends by death, divorce, or separation.

Handbook, Appendix 2.2.2. Petitioner has none of those relationships to C.G. Thus she cannot be eligible for BC+ as C.G.’s caretaker, and the county correctly denied BC+ for her.

CONCLUSIONS OF LAW

Petitioner is not eligible for BC+ because the child in her care is not related to her.

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 8th day of January, 2013

\sBrian C. Schneider
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 January 8, 2013.

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