



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCS/145318

PRELIMINARY RECITALS

Pursuant to a petition filed November 14, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Fond Du Lac County Department of Social Services in regard to Medical Assistance, a hearing was held on December 17, 2012, at Fond Du Lac, Wisconsin.

The issue for determination is whether respondent appropriately denied petitioner's application for Medical Assistance (MA) – BadgerCare Plus (BC+) backdated to September, 2012, for herself and her two minor children.

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: Debra Bowman

Fond Du Lac County Department of Social Services
87 Vincent Street
Fond Du Lac, WI 54935 -4595

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Fond Du Lac County.

2. Petitioner separated from her husband, [REDACTED] [REDACTED] at some point after September 9, 2012 and prior to October 9, 2012. She subsequently submitted an application for BC+ benefits on October 10, 2012 for herself and her two minor children, requesting backdating to September, 2012.
3. At the time of the October application, petitioner and her two minor children were included in an existing BC+ case with [REDACTED] [REDACTED]
4. A verification letter was issued on October 22, 2012, requesting that petitioner verify employment at [REDACTED] among other requested verifications. All verifications were due on November 9, 2012.
5. Petitioner did not verify her employment at [REDACTED] on or before November 9, 2012.
6. Respondent notified petitioner on November 11, 2012, that it had denied her request for BC+ benefits since petitioner and her children had already received September and October benefits on another case. The notice also indicated that November, 2012 benefits were denied due to petitioner's failure to timely provide required verifications.

DISCUSSION

I. September and October, 2012, BC+ Benefits

Petitioner testified at hearing that she and [REDACTED] [REDACTED] separated following Mr. [REDACTED]'s approved application for BCP benefits in September of 2012. She also presented evidence, in the form of a letter from her attorney, establishing that petitioner presently has placement of her minor children the majority of the time. See, Exhibit 1, p. 3. Petitioner contends that, due to court order regarding placement of her minor children following an October 9, 2012, Family Court Hearing, she should be entitled to FS benefits for September and October, 2012. Respondent counters that BC+ benefits for those months had already been disbursed to the BC+ household including [REDACTED] [REDACTED] of which petitioner was a member.

The Department's written BadgerCare Plus policy states as follows:

The *BC+ Test Group* includes the primary person and any individuals living in his/her household whose income and/or needs are considered when determining financial eligibility. Inclusion in the Test Group is determined by qualifying relationships and legal responsibility.

Anyone in the home who meets the criteria of being in the BC+ Test Group, is always included in the group whether or not s/he requested BC+.

Persons in the home who do not meet the criteria to be in a BC+ Test Group must be excluded. However, they may be included in a BC+ Test Group in another case.

BadgerCare + Eligibility Handbook, § 2.2.

The *BC+EH* further states:

The BC+ Test Group for a primary person who is residing with his or her own child or with a spouse and the spouse's child will include the following individuals:

1. The primary person and the primary person's spouse.
2. A child under age 19 of the primary person or the primary person's spouse.
3. A co-parent of a primary person's child or the co-parent of the spouse's child.
4. Any spouse of a co-parent.

5. Any child under age 19 of a co-parent.
6. The other parent of a co-parent's child.
7. A child of the primary person's child or the spouse's child.
8. The spouse of an included child, if that child is a parent, or the spouse is under age 19.
9. The co-parent of an included grandchild.
10. A child under age 19 who is a qualified relative of, and residing with, the primary person, the primary person's spouse or another included adult.
11. An essential person. (2.2.1.3)

BadgerCare + Eligibility Handbook, § 2.2.1. And see, Wis. Admin. Code §DHS 103.03(1)(f).

This portion of the appeal concerns whether the petitioner, and her minor dependents, were living with [REDACTED] [REDACTED] in September and/or October, 2012, in a sole household such that all must be included in the BC+ group headed by [REDACTED]. If the answer is "yes", then the agency actions taken here are correct. Conversely, if the answer to that question is "no" then the agency actions must be reversed.

The answer is yes. The petitioner has not presented any information that would demonstrate an error on the part of the respondent in denying the duplication of BC+ benefits for petitioner and her minor children for September and October, 2012.

II. November, 2012 BC+ Benefits.

BC+ is a medical insurance program for working families, authorized by Wis. Stat., §49.665. The statute specifies two eligibility criteria. First, an applicant family cannot have income greater than 185% of the poverty line. Wis. Stat., §49.665(4)(a)1. Second, the family cannot have access to employer-subsidized health care coverage. Wis. Stat., §49.665(4)(a)2 and 3. In addition, the statute allows the department to establish additional eligibility requirements. Wis. Stat., §49.665(4)(a)4. A person is eligible if she meets all non-financial and financial requirements. Medicaid Eligibility Handbook, § 1.1.1. (This is available online at <http://www.emhandbooks.wi.gov/meh/>).

An applicant for MA or a representative acting on the applicant's behalf is responsible for providing the agency with full, correct, and truthful information. Wis. Adm. Code §DHS 102.01(6). Income and assets must be verified. §DHS 102.03(3) (a) and (h). MA shall be denied when the applicant is able to produce the required verification but fails to do so. §HFS 102.03(1). If the applicant is unable to produce the verification, the agency must assist her/him. Id. An application must be processed within 30 days of its filing date. §DHS 102.04(1); §DHS 104.01(10). If there is a delay in securing information, the agency must notify the applicant of the delay and the reason for the delay. §DHS 102.04(1).

The Department interprets those requirements in its Income Maintenance Manual, Chapter I, Part C. Asset and income verification is mandatory. IMM, I-C-9.3.0 & 9.1.0. The county shall deny benefits when all of the following are true: (1) the applicant has been given adequate notice of the verification required, (2) the verification is necessary to determine current eligibility, (3) the applicant has the power to produce the verification, (4) the time allowed to produce the verification has passed. IMM, I-C-3.3.0. The agency generally should allow 10 days for verification, but it cannot deny an application until at least 31 days have passed since it was filed. IMM, I-C-5.1.0.

In this case, the county agency correctly denied petitioner's BC+ application due to petitioner's failure to timely verify mandatory financial information. In testimony at hearing, petitioner did not contest that she did not timely submit to respondent the required employment and income verification regarding the [REDACTED]. Instead, she alleged that she only worked there sporadically; therefore, she did not have any proof to provide. However, the record does not demonstrate that petitioner requested an extension of

time from respondent to obtain the verification, nor that petitioner requested any assistance from respondent in obtaining the employer verification. As such, I conclude that the petitioner did not establish any good cause for failing to timely submit her employment verification to respondent, and that she did not refute respondent's case regarding the denial of her BC+ application on these grounds.

Accordingly, for the above reasons, the respondent correctly denied the petitioner's October, 2012, BC+ application due to (1) petitioner's receipt of BC+ benefits in September and October as part of an existing BC+ case; and (2) failure to timely verify required employment and income information.

CONCLUSIONS OF LAW

1. Petitioner and her two minor children received BC+ benefits in September and October as part of an existing BC+ case.
2. Petitioner failed to timely verify required employment and income information.

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 8th day of January, 2013

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



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The preceding decision was sent to the following parties on January 8, 2013.

Fond Du Lac County Department of Social Services
Division of Health Care Access and Accountability