



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCS/145400

PRELIMINARY RECITALS

Pursuant to a petition filed November 21, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Rock County Department of Social Services in regard to Medical Assistance (MA), a hearing was held on January 3, 2013, at Janesville, Wisconsin. With the petitioner's consent, the hearing record was held open for 7 days for production of paternity-related documentation.

The issue for determination is whether the county agency correctly discontinued the petitioner's BadgerCare Plus (BCP) coverage effective December 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: Pam Edmonds, ES Supr.

Rock County Department of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

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

FINDINGS OF FACT

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

2. Prior to December 2012, the petitioner and his minor son, DL, were covered by BadgerCare Plus (BCP). BCP is a Wisconsin variant of MA for low-income households consisting of minor children and their parents, or pregnant women. The agency undertook an investigation of the petitioner's residential status in October 2012, and concluded that the petitioner and DL were living in [REDACTED] rather than in Rock County, Wisconsin.
3. On October 22, 2012, the agency issued written notice to the petitioner advising that BCP coverage for the petitioner and DL was being discontinued effective December 1, 2012. See, Exhibit 2. The basis for discontinuance was that they were not residing in Wisconsin.
4. From at least October 2012 through the date of hearing, DL was residing at [REDACTED]. DL lives at that address with the petitioner's girlfriend, and the child attends [REDACTED] School in [REDACTED].

DISCUSSION

BadgerCare Plus is an expansion of the Wisconsin Medical Assistance program meant to provide insurance for children under 19 and their parents. *BadgerCare Plus Eligibility Handbook (BCPEH)*, 1.1. There are two major BCP benefit plans. In general, to be eligible for any BCP plan, a family cannot have income greater than 200% of the poverty line. Wis. Stats. §49.471(8). The poverty line benchmarks may be viewed at *BCPEH* at §50.1, at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm>.

In the instant case, the agency determined that the petitioner was not eligible for BadgerCare Plus for a *nonfinancial* reason. To qualify for BCP, the statute requires that the recipients be residents of Wisconsin. The statute also requires that an adult must have be the parent of a child who is residing in the adult's home, or be working toward family unification by complying with a permanency plan:

(4) GENERAL ELIGIBILITY CRITERIA ... (a) ... all of the following individuals are eligible for the benefits ...:

1. A pregnant woman...
2. A child who is under one year of age...
3. A child whose family income does not exceed 200 percent of the poverty line ...
4. An individual who satisfies all of the following criteria:
 - a. *The individual is a parent* or caretaker relative *of a child who living in the home with the parent* or caretaker relative or who temporarily absent from the home for not more than 6 months or, if the child has been removed from the home for more than 6 months, the parent or caretaker relative is working toward unifying the family by complying with a permanency plan under s.48.38 or 938.38. ...

(emphasis added)

Wis. Stat. §49.471(4)(a). The statute does not provide further direction as to how much time a child needs to be placed in a parent's home to be "living in the home" with the parent. See also, *BCPEH*, §2.2.1.

The petitioner agrees that the child DL attends school in [REDACTED] but asserts that the child lives with him at [REDACTED]. I did not find this assertion credible. I believe that the child lives in the community where he is attending school. Per the petitioner's admission, the school paperwork lists the child's residence as the [REDACTED] address. I conclude that the child lives in Illinois and is therefore not BCP eligible. The petitioner may wish to apply for Medicaid for this child through Illinois.

Given that the child lives in Illinois, if the petitioner lives at the [REDACTED] Wisconsin address, the petitioner is no longer eligible for BCP. That is so because he is an adult without a minor child living in his residence. He is therefore not eligible for BCP.

The petitioner also appealed from his Foodshare discontinuance. That decision will be issued separately, as different rules apply.

CONCLUSIONS OF LAW

1. The county agency correctly discontinued the petitioner's BCP for December, 2012, because there is no minor child living in the petitioner's home.
2. The county agency correctly discontinued the petitioner's BCP for the child DL, because that child no longer lives in Wisconsin.

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 22nd day of January, 2013

\sNancy J. Gagnon
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 22, 2013.

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