



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/146853

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 24, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Brown County Human Services in regard to Medical Assistance – BadgerCare Plus, a hearing was held on February 19, 2013, at Green Bay, Wisconsin.

The issue for determination is whether the county agency correctly terminated the petitioner's MA benefits due to failure to timely provide proper verification.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Crystal Glen  
Brown County Human Services  
Economic Support-2nd Floor  
111 N. Jefferson St.  
Green Bay, WI 54301

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County. On or about June 26, 2012, she re-applied for BadgerCare Plus (BCP) benefits for herself and her minor child. Her BCP had previously been discontinued (March 31, 2012) for failure to report/verify household composition.

2. On July 16, 2012, petitioner failed to verify her household composition and Wisconsin residency, and the June, 2012 application was denied.
3. On or about October 11, 2012, petitioner applied anew for BCP benefits for herself and her minor child. Verifications were received on October 22, 2012.
4. On December 12, 2012, the Brown County Sheriff's Office responded to a call from petitioner reporting a verbal dispute between petitioner and her boyfriend, RL. The report indicated that RL told officers that he lived with petitioner and another adult, JT. Petitioner "...told officers that she only stays at the apartment 3-4 days per week" according to the police report. Follow-up investigation reported that the apartment manager informed officers that JT was on the lease, but a male and female with a baby were staying there as well. A neighbor further corroborated the landlord's statement.
5. Electronic Case Comments indicate that the respondent became aware of petitioner's unreported household composition on or about December 18, 2012, and added RL to petitioner's BCP case. On December 19, 2013, respondent sent petitioner a Notice of Proof Needed requesting verification of Wisconsin residency and RL's employment. The verifications were due by December 28, 2012.
6. On January 3, 2013, respondent sent a notice to petitioner advising her that her BCP benefits would end effective February 1, 2013, due, in part, to her failure to provide the requested verification. Petitioner telephoned respondent on January 4, 2013. She indicated that she was homeless and sometimes stays with her parents. Respondent informed her that:
 

Told her we will continue to look at the 3 of them ([petitioner], [RL] & child) as an intact family until she can show us otherwise.
7. On January 9, 2013, petitioner telephoned the respondent asking what would constitute acceptable verification of RL's living situation. Respondent advised that a "signed dated statement from his parents that he lives with them, and she is not part of that household" would be acceptable.
8. Electronic Case Comments dated January 15, 2013 indicate:
 

Rec'd written stmt from [RL] stating that he resided with his parents for the months of nov & dec 2012 and he is now residing with a jasmine baker... he continued to state that he has not resided with [petitioner] since sept 2012. This is not ACCEPTABLE VERIF. THE ONLY ACCEPTABLE VERIF will be a lease with his name/address on it or mail. NO WRITTEN STMTS WILL BE ACCEPTABLE.
9. On January 24, 2013, petitioner filed an appeal with the Division of Hearings & Appeals contesting the termination of her BCP benefits.

### DISCUSSION

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. §DHS 102.03(1). (Emphasis added). 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. 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. IMM, I-C-5.1.0.

The respondent's records reveal a long and difficult history with this petitioner. Petitioner has been a recipient of BCP benefits for several years, though not continuously. She has been previously denied for failure to verify her household composition. In the instant matter, the respondent received information that petitioner had reported living with RL, the father of her minor child. Appropriately, the respondent immediately followed that with a request for verification of petitioner's household.

The evidence shows that, in an untimely response to the verification request, the petitioner provided a letter from RL claiming that he resided with his parents, and did not reside with petitioner, in November and December of 2012. Notably, the respondent had requested a statement from RL's parents to that effect. However, the petitioner solely provided a written statement from RL. In light of the conflicting information received from the Brown County Sheriff's Office, I concur with the respondent's determination that this does not constitute acceptable verification.

The Brown County Sheriff's Office report concerned an incident in the middle of December, 2012. At that time, the report noted that both RL and petitioner reported living together (per petitioner it was 3-4 days per week). Interviews with neighbors further confirmed that RL, petitioner and their daughter were living with JT at his Roland Lane apartment.

At hearing the petitioner indicated that she is presently homeless, and that she separated from RL in September of 2012. She stated that RL was evicted from his residence in November, 2012, and moved in with his mother. Aside from her assertions, petitioner has provided nothing to substantiate her claims or rebut the December, 2012, police report. An applicant is responsible to produce this proof, and quite frankly, it should not be as difficult as it appears to have been. Letters were submitted post-hearing from petitioner's sister and her stepmother. While both indicated that petitioner stayed with them at times, there was no date provided which might have substantively established petitioner's residency. Petitioner herself provided written correspondence post-hearing, but again only reiterated her contention that she and RL broke up in September, and thereafter she moved in with her father and stepmother. A neighbor further corroborated the landlord's statement. A neighbor further corroborated the landlord's statement. Based upon the record before me I am unable to conclude that the petitioner has established by a preponderance of the record her actual residence in late 2012, or that RL did not reside with her in late 2012. Accordingly, I find that the respondent properly terminated her BCP benefits effective February 1, 2012.

The petitioner may re-apply for BCP at any time. In that event, she must be prepared to establish that RL does not reside in her household by whatever means necessary, i.e., legal documents, public records, leases, legible rent receipts, employer records, etc. To date, her efforts to so verify this fact ring hollow. She needs to do more. She indicated in correspondence dated February 21, 2013, that RL may be incarcerated in April, 2013. This should be easily verifiable, and will likely constitute irrefutable evidence that RL is not residing with petitioner.

### **CONCLUSIONS OF LAW**

1. The petitioner failed to timely provide required household composition and financial verification regarding the residence of her child's father, RL, and did not establish any good cause for such failure.

2. The county agency correctly terminated the petitioner's BCP benefits, due to petitioner's failure to provide to the county agency required household composition and employment/income verification needed to determine petitioner's BCP eligibility and benefits.

**THEREFORE, it is**

**ORDERED**

The petition for review herein be, and the same hereby 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 3rd day of April, 2013

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\sPeter McCombs  
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 April 3, 2013.

Brown County Human Services  
Division of Health Care Access and Accountability