



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/147242

PRELIMINARY RECITALS

Pursuant to a petition filed February 07, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Dunn County Department of Human Services in regard to Medical Assistance, a hearing was held on March 19, 2013, at Menomonie, Wisconsin.

The issue for determination is whether the county agency correctly denied medical assistance to the petitioner because he failed to adequately verify his income.

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: Paula Goodell

Dunn County Department of Human Services
808 Main Street
PO Box 470
Menomonie, WI 54751

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Dunn County.

2. The petitioner was an ongoing recipient of the BadgerCare Plus program. On January 22, 2013, after he had completed his renewal application, the agency requested that his wife verify her income by providing “Pay Stubs from the last 30 days.”
3. The petitioner worked sporadically and only received one paycheck in the 30 days before the request. She provided this to the agency.
4. The agency ended the petitioner’s BadgerCare Plus benefits as of February 1, 2013, because his wife only sent one pay stub for the previous 30 days.

DISCUSSION

Medicaid rules require recipients to verify income. Wis. Admin. Code, § DHS 102.03(3)(a). According to Wis. Admin. Code, § DHS 102.03(1):

An application for MA shall be denied when the applicant or recipient is able to produce required verifications but refuses or fails to do so....If the applicant or recipient is not able to produce verifications, or requires assistance to do so, the agency may not deny assistance but shall proceed immediately to verify the data elements

Agencies must allow at least 30 days from the date of application or 10 days from the date of the request, whichever is later, to verify the information. *Medicaid Eligibility Handbook*, § 20.7.1.1. *see also* Wis. Adm. Code § DHS 102.03(1). Medical assistance policy instructs when to approve or deny an application:

Begin or continue benefits when:

1. The member provides requested verification within the specified time limits and is otherwise eligible.
2. Requested verification is mandatory, but the member does not have the power to produce the verification and s/he is otherwise eligible

Medicaid Eligibility Handbook, § 20.8.1.

Deny or reduce benefits when all of the following are true:

1. The member has the power to produce the verification.
2. The time allowed to produce the verification has passed.
3. The member has been given adequate notice of the verification required.
4. You need the requested verification to determine current eligibility. Do not deny current eligibility because a member does not verify some past circumstance not affecting current eligibility

The county agency requested that the petitioner verify his wife’s income by providing “Pay Stubs from the last 30 days.” She works sporadically and provided the pay stub for the only period she worked during this period. The agency apparently was unaware of this and denied the petitioner’s renewal application on the ground that he failed to adequately verify his wife’s income. Because a person cannot verify income she does not have, I will remand this matter to the county agency with instructions to continue processing the application, using the information it currently has available.

CONCLUSIONS OF LAW

1. The petitioner adequately verified his wife’s income.

2. The county agency incorrectly denied the petitioner's renewal application for medical assistance on the ground that he failed to verify his wife's income.

THEREFORE, it is

ORDERED

That this matter is remanded to the county agency with instructions to continue processing the petitioner's renewal application and, within 10 days of the date of this decision, redetermine his eligibility back to February 1, 2013. If the agency determines that that the petitioner is eligible for benefits, it shall ensure that he receives all benefits due to him retroactive to February 1, 2013. The agency shall use the financial information it now has concerning his wife's when determining his eligibility and shall not require that his wife provide any further verification of her income.

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 April, 2013

\sMichael D. O'Brien
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 8, 2013.

Dunn County Department of Human Services
Division of Health Care Access and Accountability