



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

[REDACTED]

BCS/147533

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 19, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Marathon County Department of Social Services in regard to Medical Assistance, a hearing was held on April 22, 2013, at Wausau, Wisconsin.

The issue for determination is whether the Department erred in its decision to backdate BC+ eligibility to 10/1/12.

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: Mai Kou Yang

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

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Marathon County.
2. Petitioner applied for BC+ on 10/19/12.
3. The agency sought additional information from petitioner by request sent on 11/13/12 seeking income information and documentation verifying placement of the children.

4. Petitioner sent income verification which was received at the agency on 11/25/12. The agency did not receive the placement information is had requested.
5. The agency sent notice of denial of BC+ due to non-receipt of the information relating to child placement. That notice was sent on 11/27/12.
6. On 12/10/12, petitioner called the agency and was informed that he needed to re-apply and submit the required documentation.
7. Petitioner called again on 12/21/12 at which time agency personnel again informed him that he needed to re-apply and submit the documentation regarding placement.
8. On 1/4/13 the agency received the placement documentation.
9. On 1/11/13 the agency worker called petitioner and left a message informing petitioner that he needed to re-apply for BC+.
10. Petitioner submitted a paper application on 1/18/13. Petitioner was found eligible. BC+ was backdated 3 months back from the first day of the application month to 10/1/12.
11. Petitioner filed an appeal seeking additional backdating.

### DISCUSSION

A person who is nonfinancially eligible for BCP may request backdating of coverage, subject to income requirements, for up to three months preceding the BCP application:

#### **(6) Miscellaneous eligibility and benefit provisions.**

(a) Any pregnant woman, including a pregnant woman under **sub. (5) (b) 1.**, child who is not an unborn child, including a child under **sub. (5) (b) 2.**, parent, or caretaker relative whose family income is less than 150 percent of the poverty line is eligible for medical assistance under this section for any of the 3 months prior to the month of application if the individual met the eligibility criteria under this section and had a family income of less than 150 percent of the poverty line in that month.

Wis. Stat. §49.471(6)(a). See in accord, 42 C.F.R. §435.914(a),(c). See also, *BadgerCare Plus Eligibility Handbook*, §25.8.1, online at <http://www.emhandbooks.wi.gov/bcplus/>.

In this case, the initial application was denied due to non-receipt of the placement documentation. There was some testimony regarding the possibility that petitioner sent such information in a fax that did not transmit properly. But, it is clear that the agency did not receive it. That documentation is essential. The Department sent a notice on 11/27/12 indicating denial. Agency personnel advised him twice in December to re-apply and provide the documentation. But, the new application was not submitted until the month of January. This was the critical factor, and the reason why the backdate cannot go back to September as petitioner wants. Had he re-applied when the agency advised, he would have the eligibility he seeks. The Department did not err.

### CONCLUSIONS OF LAW

The Department did not err in backdating the eligibility to 10/1/13.

**THEREFORE, it is**

**ORDERED**

That this appeal 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 6th day of June, 2013

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\sJohn P. Tedesco  
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 June 6, 2013.

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