



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/147577

PRELIMINARY RECITALS

Pursuant to a petition filed February 25, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on April 10, 2013, at Milwaukee, Wisconsin. At the request of petitioner, a hearing set for March 21, 2013 was rescheduled.

The issue for determination is whether Milwaukee Enrollment Services (MES) correctly discontinued the petitioner's BadgerCare (BC) Plus benefits effective March 1, 2013, due to failure to report or verify correct household composition (her boyfriend in petitioner's home) and his employment and 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: Katherine May, HSPC senior
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County who resided with her two children (third child was born March 21, 2012) creating a household of four.
2. The petitioner has three children in common with her boyfriend, [REDACTED] [REDACTED].

3. The petitioner received BadgerCare (BC) Plus benefits for a household of three and then four during 2012.
4. The petitioner participated in her review for BadgerCare and FoodShare benefits as a single parent with her two and then three children during January, 2012, and did not report [REDACTED] [REDACTED] as residing in her household, and thus a BC group of five.
5. The petitioner received BadgerCare (BC) benefits for the entire period of January, 2012 through December, 2012.
6. During her application interview process, her six month review form (SMRF) and during her annual review, petitioner maintained that she lived alone with her minor children. Petitioner claimed that their father, [REDACTED] [REDACTED], was in and out of jail, and when not in jail alleged with no reliable documentation that he resided with a friend.
7. The petitioner failed to establish with any reliable evidence the periods of time when [REDACTED] [REDACTED] was in jail during 2012.
8. During the hearing, petitioner was not able to provide any reliable evidence that during the overpayment period [REDACTED] paid any monthly rent to any landlord or had a lease or any other contract as a rental agreement.
9. Due to a "tip" on December 5, 2012 that [REDACTED] [REDACTED] did reside in petitioner's household, MES began investigating whether the father of petitioner's three children ([REDACTED] [REDACTED]) had been residing with petitioner at least as of January, 2012, and that his income had not been timely reported to the county agency.
10. MES established with reliable records (Municipal Court, Wisconsin Circuit court, child support agency) that [REDACTED] [REDACTED] resided with the petitioner during the period of January 1, 2012 through December 31, 2012.
11. The county agency sent a January 28, 2013 Verification Request Notice to the petitioner which requested that petitioner provide to the county agency by February 6, 2013 paystubs for [REDACTED] [REDACTED]'s employment and income at [REDACTED], Inc.
12. The petitioner failed to provide that requested verification by February 6, 2013 or even by March 1, 2013.
13. Milwaukee Enrollment Services sent a February 11, 2013 Notice of Decision to the petitioner indicating that her BadgerCare benefits would discontinue effective March 1, 2013, due to failure to report her accurate household composition and failure to verify [REDACTED] [REDACTED]'s employment or income at [REDACTED].
14. [REDACTED] [REDACTED] did not appear at the April 10, 2013 hearing to testify or answer questions.
15. During the April 10, 2013 hearing petitioner failed to establish that [REDACTED] [REDACTED] resided at any residence other than the petitioner's residence during 2012.

DISCUSSION

BadgerCare (BC) is a medical insurance program for working families, mandated by Wis. Stat., §49.665, and implemented July 1, 1999. 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 s/he 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. §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. 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.

During the April 10, 2013 hearing and in its exhibits, Milwaukee Enrollment Services (MES) representative established that the county agency correctly discontinued the petitioner's BC effective March 1, 2013, due to failure to timely verify whether [REDACTED] [REDACTED] resided in her household and his employment/income information. [REDACTED] [REDACTED] failed to appear to testify or answer any questions. The petitioner testified in vague terms that Mr. [REDACTED] allegedly was in and out of jail during indefinite periods, and then lived with a friend [REDACTED] [REDACTED] during some uncertain periods during the overpayment period. Petitioner's testimony was not credible. Petitioner was unable to provide any evidence of any lease or contract of any kind for [REDACTED] [REDACTED] during the overpayment period. Furthermore, the testimony of petitioner appeared entirely unconvincing as she was unable to provide any specific dates of her allegations, and had no receipts or documents whatsoever to confirm any rental payment to any party.

The petitioner was unable to refute the county representative's testimony or documentation that her boyfriend resided in her household, and that his income must be verified in order for the county agency to determine whether petitioner continues to be eligible for any FS benefits. Based upon the hearing record, petitioner has failed to provide the requested verification to the MES about [REDACTED] [REDACTED]. Furthermore, petitioner did not establish any good cause for failing to timely provide the requested employment/income verification. Accordingly, for the above reasons, I conclude that the county agency correctly discontinued the petitioner's BadgerCare benefits effective March 1, 2013, due to failure to timely provide required financial verification regarding the father of her children in order to determine her continued BC eligibility and benefits.

CONCLUSIONS OF LAW

1. The petitioner failed to timely provide required employment and income verification of her boyfriend ([REDACTED] [REDACTED]), and did not establish any good cause for such failure.
2. The county agency correctly discontinued petitioner's BadgerCare (BC) Plus benefits effective March 1, 2013, due to petitioner's failure to provide to the county agency [REDACTED] [REDACTED]'s employment/income verification needed to determine petitioner's continued BC eligibility and benefits.

THEREFORE, it is

ORDERED

The petition for review herein be and the same is hereby 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 17th day of May, 2013

\sGary M. Wolkstein
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on May 17, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability