



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCC/147985

PRELIMINARY RECITALS

Pursuant to a petition filed March 13, 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 23, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether petitioner may bypass the BadgerCare Core plan waitlist.

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: Belinda Bridges

Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a 61 year old resident of Milwaukee County.
2. Petitioner has been deemed eligible for the BadgerCare Core plan (BCC), and was placed on the BCC waitlist on or about February 12, 2011.

3. Petitioner reapplied for BCC enrollment on February 19, 2013. That application was denied by the respondent, who noted that petitioner is not a child under age 19, a relative who lives with and cares for a child under 19, pregnant, disabled, age 65 or older, or blind.
4. Petitioner timely filed an appeal of the denial on March 13, 2013.

DISCUSSION

BCC is authorized by Wis. Stat. §49.45(23) and a federal waiver document. To qualify for BadgerCare, a person must meet both non-financial and financial requirements. Included among the non-financial requirements are the following: applicant must be a child under age 19, a relative who lives with and cares for a child under 19, pregnant, disabled, age 65 or older, or blind. *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1. The petitioner did not meet these basic requirements, so denial of her case was correct.

The BCC was initiated in July, 2010, without a waiting list. However, it proved to be very popular, and Core applications received after October 9, 2010, were placed on a waiting list. Prior to March 19, 2011, the Department had a waitlist bypass process. That process allowed persons with serious illnesses to get into the Core plan ahead of the waitlisted persons. The Department ended the bypass process on March 19, 2011. Petitioner contends that she should be allowed to bypass the waitlist.

No state statute or rule addresses the BCC waiting list. See, Wis. Stat. §49.45(23). The Department's policy statement since March, 2011, has been as follows:

45.2.2 Core Plan Waitlist Bypass Ending

Although DHS has federal authority to allow Basic Plan members with certain medical conditions to bypass the Core Plan waitlist and apply for coverage, the DHS is not required to do so. Enrollment in the Core Plan through the Waitlist Bypass program ended effective March 19, 2011.

BadgerCare Plus Eligibility Handbook (BCPEH), §45.2.2 (5/19/11); see also *Operations Memo*, #11-11. I can find no authority for overturning the Department's determination that petitioner cannot move to the front of the waitlist. In instituting the waitlist, the Department acted to stem the rising, unbudgeted costs of the BCP Core program, and its action was not unreasonable. Thus, the decision to maintain the petitioner's position on the BCC waiting list is sustained.

CONCLUSIONS OF LAW

1. The Department correctly denied the petitioner's February 19, 2013 BadgerCare application, as petitioner did not satisfy the program's non-financial requirements.
2. The Department correctly denied the petitioner's request to bypass the BCC waitlist.

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 30th day of May, 2013

\sPeter McCombs
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 30, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability