



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCC/148092

PRELIMINARY RECITALS

Pursuant to a petition filed March 14, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Shawano County Department of Social Services in regard to Medical Assistance, a hearing was held on June 05, 2013, at Shawano, Wisconsin.

The issue for determination is whether the county agency correctly ended the petitioner's BadgerCare Plus Core Plan benefits because he failed to timely provide requested verifications.

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: Carol Letter

Shawano County Department of Social Services
607 E. Elizabeth Street
Shawano, WI 54166-3105

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Shawano County.
2. Respondent notified the petitioner on February 1, 2013, that she must verify her income by February 11, 2013.

3. Petitioner's accountant submitted the requested verification information on February 11, 2013, at 5:17 p.m.
4. Respondent terminated petitioner's benefits via notice dated February 11, 2013. Petitioner timely filed an appeal of the termination on March 14, 2013.

DISCUSSION

Medical assistance recipients must verify their income. Wis. Admin. Code, § DHS 102.03(3)(a). Applicants must verify information within 30 days of the date they applied for benefits, or 10 days from the date the agency requests them to do so, whichever is later. *BadgerCare Plus Eligibility Handbook*, § 9.2. The Wis. Admin. Code, § 102.03(1) sets forth the following basic rule concerning verification:

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.

Regarding ongoing cases, policy dictates that,

The group's eligibility should not be denied for failure to provide the required verification until the 11th day after requesting verification or the end of the review month whichever is later.

BadgerCare Plus Eligibility Handbook, § 9.3.

The petitioner was an ongoing BadgerCare Plus Core Plan recipient who reapplied for benefits early this year. At some point her benefits ended, apparently because of an alleged failure to verify her income. Respondent requested the verification on February 1, 2013, and specified a due date of February 11, 2013. On February 11, 2013, ten days after requesting verification, respondent issued a notice terminating petitioner's enrollment in BadgerCare Plus Core Plan.

Petitioner's accountant provided correspondence indicating that it initially faxed the verification information on February 5, 2013. Petitioner contacted the accountant on February 8, 2013, and indicated that the respondent could not determine where the February 5, 2013 fax had been routed. On February 11th, the accountant again faxed the information; the accountant only retained a facsimile receipt for the February 11, 2013 transmission. See, Exhibit 2..

While the accountant did not appear at hearing, the respondent concedes that it did receive the February 11, 2013 fax at 5:17 p.m., as alleged by the petitioner. The *BadgerCare+ Eligibility Handbook* specifies how verification information is handled.

The verification receipt date is the day verification is delivered to the appropriate Income Maintenance agency or the next business day if verification is delivered after the agency's regularly scheduled business hours.

BadgerCare+ Eligibility Handbook § 9.11.1.

The respondent is further instructed to:

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. In this situation, the agency must also make an effort to obtain the verification (9.8).

BadgerCare+ Eligibility Handbook § 9.11.2.

Petitioner's husband testified that he made multiple attempts to timely comply with respondent's verification requests, and I note that even after notifying petitioner's accountant on February 8, 2013, that the February 5, 2013, fax was not received, the accountant waited three full days, until the late afternoon of February 11, 2013, to finally send the fax. Inexplicably, Electronic Case Comments provided by the respondent indicate that the verification documents were not documented therein until February 18, 2013, which information is directly contradicted by the fax verification supplied by petitioner's accountant. Exhibit 2.

This is a very close case, and the record before me is filled with unresolved inconsistencies and unsubstantiated claims. The respondent seeks to deny an ongoing application because verification was received about an hour too late. But the respondent never notified petitioner of a specific due date *hour*. The petitioner alleges that the verification information was initially submitted 5 days prior to the due date, but only provides hearsay evidence in support of this claim.

I ultimately find that the respondent has not met its burden here. The respondent's case was very scantily documented in the record. I find that the application cannot be denied for lack of verification because the petitioner has established, albeit barely, that verification was submitted timely. As such, I will remand this matter to the respondent with instructions to continue processing this renewal.

CONCLUSIONS OF LAW

The Department cannot deny the petitioner's renewal of BadgerCare Plus Core Plan benefits for failure to verify her income because there is no evidence that she failed to do so timely.

THEREFORE, it is

ORDERED

That this matter is remanded to the respondent with instructions that within 10 days of the date of this decision it continue to process the petitioner's renewal application for the BadgerCare Plus Core Plan. If the county agency does not have adequate verification of the petitioner's income, it may request additional information, but it shall promptly provide her with any help she requires in gathering this information.

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 1st day of July, 2013

\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 July 1, 2013.

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