



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/148183

PRELIMINARY RECITALS

Pursuant to a petition filed March 19, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Wood County Human Services – Wis. Rapids in regard to Medical Assistance (MA)/BadgerCare Plus (BCP), a hearing was held on April 15, 2013, by telephone. The hearing record was held open for five days for a submission from the petitioner, which was received.

The issue for determination is whether the Department correctly discontinued the petitioner's son's BCP.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703
By: Beulah Garcia, ES Supr.
Northern IM Consortium

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Vilas County.
2. Prior to February 2013, the petitioner's household received BCP coverage for the petitioner's son. The petitioner's case was due for a periodic review, which was performed in late January 2013. On January 29, 2013, the Department issued a written income verification request to the petitioner. That request sought verification of earned income for all household members, due by February 7, 2013. *See*, Exhibit 1.

3. Income verification for the petitioner and his son was timely received on February 6. The Department asserts that income verification for the third household member, [REDACTED], was not received.
4. The petitioner sent income verification for [REDACTED] to the Department by fax on February 6, 2013. That verification form, signed by the employer on February 4, 2013, declares that Ms. [REDACTED] earns \$7.75 hourly for 26 hours weekly at an oil company, and is paid bi-weekly.
5. On February 8, 2013, the Department issued written notice to the petitioner advising that his BCP case would remain closed effective January 31, 2013. The basis for closure was failure to supply requested verification. The notice also observes that the petitioner and Ms. [REDACTED] were not seeking BCP coverage. *See*, Exhibit 2.
6. The petitioner's son attained the age of 19 in March 2013. The petitioner seeks BCP coverage for his son for the months of February and March 2013 in this appeal.

DISCUSSION

BadgerCare Plus is an expansion of the Wisconsin Medical Assistance program meant to provide insurance for children under 19 and their parents. Wis. Stat. §49.471; *BadgerCare Plus Eligibility Handbook (BCPEH)*, 1.1. This is a means-tested program, with no adults eligible for coverage unless their income is at or below 200% of the Federal Poverty Level (FPL). *BCPEH*, § 1.1.1, available at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm>. This household had income exceeding 200% FPL, so only the petitioner's son was eligible for BCP coverage.

A review of an ongoing participant's eligibility is required every year. *Id.*, § 26.1.1. There is no dispute that the petitioner's review was due in January 2013. The petitioner was notified of the review requirement and completed the review requirements, other than income verification, in January.

If earned income is identified at review, the agency requests verification of that income. That request was made here. The petitioner timely returned income verification for all household members by fax on February 6, at 7:18 a.m. and 7:21 a.m. The fax received by the Department contains complete verification forms for the petitioner and his son. Additionally, the Department has an incomplete page from another verification form received on that date (presumably Ms. [REDACTED]'s form), bearing a date/time stamp of February 6, 2013, 7:15 a.m. The Department did not advise the petitioner that it had received an incomplete page. I believe that the petitioner made a timely submission, and that his son's case should not have been discontinued for February and March 2013.

CONCLUSIONS OF LAW

1. The Department incorrectly ended the petitioner's son's BCP coverage effective February 1, 2013.

THEREFORE, it is

ORDERED

That the petition is remanded to the Department with instructions to redetermine the petitioner's son's BCP eligibility for February and March 2013, incorporating the information in the Findings contained in this Decision. This action shall be taken within 10 days of the date of this Decision.

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 23rd day of May, 2013

\sNancy J. Gagnon
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 May 23, 2013.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability