



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCC/148771

PRELIMINARY RECITALS

Pursuant to a petition filed April 17, 2013, under Wis. Stat. §49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA), a hearing was held on May 14, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency acted correctly in terminating petitioner's MA effective February 1, 2013 for failing to verify information.

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
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On February 6, 2013 the petitioner's enrollment in the MA BadgerCare Plus Core Plan was pending as she reported to the agency that her employment income was not being budgeted correctly.
3. On February 7, 2013 the agency issued a request for verification to petitioner at her correct address of record requesting proof of her employment with the bus company including verification of income from the last 30 days. The requested verification was due back in the agency on March 8, 2013. It also stated, "Contact us right away if you have questions or problems getting the proof and we will help you." Exhibit 1.
4. On March 8, 2013 the agency received one pay stub from petitioner.
5. On March 11, 2013 the agency issued a notice of decision to petitioner stating that she was denied enrollment in the MA as she had not provided the requested verification.

DISCUSSION

Medicaid, also known as Medical Assistance, MA, and Title 19, is a state and federal program that helps low income people pay their medical bills. The BadgerCare Plus Core Plan (for adults without dependent children) is a MA program that provides basic health care coverage to adults who do not otherwise qualify for Medicaid or the BadgerCare Plus Standard or Benchmark Plans. BadgerCare+ Eligibility Handbook, §43.1. This Handbook governing this program is available online at <http://www.emhandbooks.wi.gov/bcplus/>.

MA recipients must verify their income. Wis. Adm. 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 Wisconsin Administrative Code, §DHS 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.

In this case, the agency contends that petitioner failed to verify her income as requested. It is a well-established principle that a moving party generally has the burden of proof, especially in administrative proceedings. *State v. Hanson*, 295 N.W.2d 209, 98 Wis. 2d 80 (Wis. App. 1980). The court in *Hanson* stated that the policy behind this principle is to assign the burden to the party seeking to change a present state of affairs. In this case, the agency has the burden to explain and support its actions with respect to the discontinuance of petitioner's MA. The representative provided the request for verification that was mailed to petitioner's correct address of record. Petitioner's testimony was vague and contradictory. First she testified that she thought she had another 30 days after March 8 to provide any additional check stubs. Later she testified that she never got the request for verification. I find that the agency properly requested the verification of the last 30 days of income and sent that to her correct mailing address. When she failed to produce the verification of the last 30 days of income, the agency properly closed her case per policy:

Deny or reduce benefits when all of the following are true:

1. The member has the power to produce the verification.
2. The time allowed to produce the verification has passed.
3. The member has been given adequate notice of the verification required.
4. You need the requested verification to determine current eligibility. Do not deny current eligibility because a member does not verify some past circumstance not affecting current eligibility.

BadgerCare Plus Eligibility Handbook, §9.11.4. Based on the foregoing, I will uphold the agency's termination of petitioner's MA.

CONCLUSIONS OF LAW

The agency acted correctly in terminating petitioner's MA effective February 1, 2013 for failing to verify information.

THEREFORE, it is

ORDERED

The petition for review herein 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 Milwaukee,
Wisconsin, this 24th day of June, 2013

\sKelly Cochrane
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 24, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability