



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/149148

PRELIMINARY RECITALS

Pursuant to a petition filed April 30, 2013, under Wis. Stat., §49.45(5)(a), to review a decision by the Door County Dept. of Social Services to deny Medical Assistance (MA), a hearing was held on June 13, 2013, by telephone.

The issue for determination is the start date of petitioner's BadgerCare Plus (BC+) eligibility.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Eric Olson

Door County Dept. of Social Services
421 Nebraska Street
Sturgeon Bay, WI 54235-0670

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider

Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Door County.
2. Petitioner applied for BC+ on March 4, 2013, requesting that eligibility be backdated to February 1, 2013, specifically to seek help for medical bills for her 16-month old daughter in that month.
3. The county calculated household income to be above 185% of poverty in February. Eligibility was granted beginning March 1, 2013.

DISCUSSION

The issue in this case is the Department's policy concerning backdated BC+. Petitioner does not contest the finding that income was higher than 185% of poverty in February.

The policy at issue is in the BC+ Handbook, Appendix 25.8.1:

BC+ eligibility begins the first day of the month in which the valid application is submitted and all eligibility requirements are met, with the following exceptions....

Children determined eligible for BadgerCare Plus are eligible for the following periods of backdated eligibility:

- Infants less than 1 year old may have their eligibility backdated up to the first of the month, three calendar months prior to the month of application for any of the months in which their family income was at or below 300% of the FPL,
- Children ages 1 through 5 may have their eligibility backdated up to the first of the month, three calendar months prior to the month of application for any of the months in which their family income was at or below 185% of the FPL, and
- Children ages 6 through 18 may have their eligibility backdated up to the first of the month, three calendar months prior to the month of application for any of the months in which their family income was at or below 150% of the FPL.

Nowhere in the policy is there a provision for special circumstances or an exception to the policy. The policy actually is broader than what is allowed by law. The Wisconsin Administrative Code, §DHS 103.08(5) allows BadgerCare to begin no earlier than the first of the month of application. The policy allowing backdating was formulated by the Department with the approval of the federal Department of Health and Human Services.

185% of poverty for a three-person household is \$3,010.88. Handbook, App. 50.1. Although the income was not stated during the hearing it is presumed that petitioner's household gross income was above that level in February.

Because there are no exceptions built into the backdating policy, the Division of Hearings and Appeals does not have authority to make exceptions. I thus must dismiss petitioner's appeal.

CONCLUSIONS OF LAW

The agency correctly found that petitioner was ineligible for BC+ in the month prior to application because household income was higher than 185% of poverty that month.

THEREFORE, it is

ORDERED

That 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 18th day of June, 2013

\sBrian C. Schneider
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 18, 2013.

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