



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/150608

PRELIMINARY RECITALS

Pursuant to a petition filed July 10, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Manitowoc County Department of Human Services in regard to Medical Assistance, a telephonic hearing was held on August 26, 2013, at Manitowoc, Wisconsin.

The issue for determination is whether the county agency met its burden of proof to establish that it correctly denied the petitioner’s May 14, 2013 BadgerCare Plus application for a household of five, due to failure to timely provide financial and non-financial verification to the county agency.

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: Alicia Free, ESS

Manitowoc County Department of Human Services
3733 Dewey Street
Manitowoc, WI 54221-1177

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Manitowoc County who resides in a household of five: petitioner; her husband, [REDACTED]; and their three children.
2. On May 14, 2013, petitioner applied for BadgerCare Plus benefits for her household of five requesting a three month backdate to February 1, 2013.

3. The county agency sent a May 31, 2013 verification request to the petitioner requesting verification of her pregnancy and her husband's employment and income from [REDACTED] Inc. and [REDACTED] lab by June 10, 2013. Petitioner did not receive that verification request.
4. The county agency sent a June 14, 2013 Notice of Decision to the petitioner stating petitioner's February 1, 2013 BadgerCare Plus application was denied due to not timely providing required verification to the county agency.

DISCUSSION

During the August 26, 2013 hearing, petitioner convincingly testified that she did not receive the county agency's May 31, 2013 verification request. She explained credibly that if she had received any verification request she would definitely have submitted the requested verification to the county agency.

In any denial of BC benefits after the petitioner establishes his/her initial burden of proof, the county agency has the burden of proof to establish that it correctly and accurately determined that petitioner failed to timely provide the requested and required verification in order to determine eligibility, premiums, and benefits. The petitioner convincingly established that she never received any verification request from the county agency, and was only aware of any request after receiving the June 14, 2013 notice which indicated that her BC application had been denied for failure to verify information. The county agency did not contest that petitioner may not have received the May 31, 2013 verification request. Accordingly, for the above reasons, I conclude that the county agency did not meet its burden of proof to establish that it correctly denied petitioner's May 14, 2013 BadgerCare Plus application for a household of five, due to failure to timely provide financial and non-financial verification to the county agency.

CONCLUSIONS OF LAW

The county agency did not meet its burden of proof to establish that it correctly denied petitioner's May 14, 2013 BadgerCare Plus application for a household of five, due to failure to timely provide financial and non-financial verification to the county agency.

THEREFORE, it is

ORDERED

The matter is remanded to the petitioner and the county agency with the following instructions to: a) **By October 16, 2013**, petitioner should submit all required financial and non-financial verification to the county agency; b) **by October 26, 2013**, the county agency should re-determine petitioner's BadgerCare Plus eligibility and any appropriate BadgerCare (BC) premium for a household of five retroactive to her backdated BC Plus application date of February 1, 2013; and c) **by October 26, 2013**, the county agency should issue to the petitioner a new notice of decision regarding the petitioner's household's BadgerCare Plus eligibility, BC premiums and benefits for a household of five retroactive to February 1, 2013.

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 4th day of October, 2013

\sGary M. Wolkstein
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 October 4, 2013.

Manitowoc County Department of Human Services
Division of Health Care Access and Accountability