



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/151491

PRELIMINARY RECITALS

Pursuant to a petition filed August 21, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on October 01, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly terminated the Petitioner's BC+ benefits effective September 1, 2013.

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: Jose Sylvestre
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. Petitioner's household consists of himself, his wife and his two children ages 19 and 13.

2. On July 16, 2013, the Petitioner called to request renewal of BC+ benefits. The application was completed and pended for signature and employment verification. The Petitioner reported his wife's earned income.
3. On July 17, 2013, the agency issued a Notice of Action and Proof Needed to the Petitioner requesting a signature as well as employment verification for [REDACTED] and [REDACTED]. The due date for the information was July 26, 2013.
4. On July 25, 2013, the agency received an employment verification from [REDACTED] verifying the Petitioner's wife is employed an average of 23 hours/week at \$7.45/hour. Her gross wage is \$685.40/month (\$171.35 x 4).
5. On August 1, 2013, the agency received an alert regarding a discrepancy in wages between wages reported and wages reflected in the State Wage Record for Petitioner's earned income from [REDACTED] for the 1st and 2nd quarters of 2013. The agency updated the case to reflect wages as reported in the State Wage Record. Petitioner's gross wages were calculated as \$2,900/month based on the state wage record.
6. On August 19, 2013, the agency issued a Notice of Decision to the Petitioner notifying him that his 13 year old child was eligible for BC+ benefits effective September 1, 2013. The notice further notified the Petitioner that the Petitioner, his wife and his 19 year old child were not eligible for BC+ benefits due to income exceeding the program limit and failure to provide requested verifications. Further, the notice indicated that the Petitioner's 19 year old child is no longer eligible because he is no longer under age 19, he does not care for a child under age 19 and he is not disabled.
7. On August 21, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

Under BC+ rules the income limit for caretaker parents is 200% of the poverty level. BC+ Handbook, Appendix 16.1. That amount for a three-person household is \$3,255. (Petitioner's 19 year old son is not part of the group for BC+ purposes). Handbook, App. 50.1. If household income is above 133% of the poverty level, recipients must pay a monthly premium based upon income. Wis. Admin. Code, §DHS 103.085(1)(b); Handbook, App. 19.1.

Petitioner's total household income calculated by the agency for September 1, 2013 was \$3,585.40. This is over the gross income limit of \$3,255. Therefore, Petitioner and his wife are not eligible for BC+ benefits. As noted earlier, the Petitioner's 19 year old is also not eligible because he does not meet non-financial eligibility requirements.

The Petitioner testified that his income in August was more than he usually makes due to more overtime. He also testified that he had faxed his pay statements to the agency by the verification due date. The agency has no record of receiving the pay statements and the Petitioner had no documentation to verify that they were faxed. The Petitioner indicated that he did not know until the hearing that the agency had not received his fax.

The agency is required to consider all non-exempt income in determining eligibility. Because Petitioner's gross household income is more than 200% of the federal poverty level, the Petitioner and his wife are not eligible for BC+ benefits. Because the Petitioner's son is 19 years old, he is no longer eligible for BC+. Therefore, the agency properly terminated BC+ benefits of the Petitioner, his wife and his 19 year old son effective September 1, 2013.

CONCLUSIONS OF LAW

The Petitioner's household income exceeds 200% of the federal poverty level. Therefore, the Petitioner and his wife are not eligible for BC+ benefits. The Petitioner's son is 19 years old and does not meet non-financial eligibility requirements.

THEREFORE, it is

ORDERED

That the petition be, and hereby 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 29th day of October, 2013

\sDebra Bursinger
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 29, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability