



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/152062

PRELIMINARY RECITALS

Pursuant to a petition filed September 16, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA)/BadgerCare Plus (BCP), a hearing was held on October 9, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the household's adults are ineligible for BCP for March through August 2013, for failure to verify petitioner's wife's income.

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, HSPC Sr.
Milwaukee Enrollment Services
1220 W. Vliet St.
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. The petitioner's household (self, wife, five children) was previously certified for BCP. There was a gap in their BCP coverage in early 2013. When the petitioner re-applied for BCP in March

- 2013, due to loss of employment, he was advised that the adults were ineligible due to restrictive re-enrollment for BCP premium non-payment.
3. The petitioner appealed from the March 2013 ineligibility determination. In fair hearing decision #BCS/149933 (August 27, 2013), Administrative Law Judge Bursinger concluded that the petitioner had good cause for his premium non-payment (health insurance had temporarily become available to the household). She ordered the agency to remove the petitioner and his wife from restrictive re-enrollment status, and to determine their BCP eligibility retroactive to the March 22, 2013 application date.
 4. To comply with the Judge's Order, the agency issued a verification request on August 29, 2013. The requested verification was of the wife's earnings from the [REDACTED] [REDACTED] [REDACTED] [REDACTED], with a submission deadline of September 9, 2013. *See*, Exhibit 5, verification request letter.
 5. The petitioner telephoned the number for Ms. May at the agency on September 9, 2013, to advise that he could not get the verification in on time. Ms. May was not in the office on September 9, 2013.
 6. On September 10, 2013, the agency mailed a notice to the petitioner advising that his adult BCP had been denied for the March through July 2013 period, due to failure to provide requested verification. *See*, Exhibit 5.
 7. On September 10, 2013, the petitioner provided the requested verification for March through June, 2013. On September 16, 2013, he provided the July paystubs, one paystub for the month of August, and the first of two paystubs for September 2013. *See*, Exhibit 6. The September paystubs reflect increased earnings for the petitioner's wife, going forward.
 8. The petitioner was able to obtain adult health insurance through his wife's employment beginning in September 2013. The adults had "access to other health insurance" beginning in September 2013. Thus, due both to income and insurance access, the adults are not BCP eligible beginning with September 2013. The petitioner's children remain BCP eligible, subject to a premium liability for October 2013 onward.

DISCUSSION

The petitioner does not contest ineligibility for adult BCP from September 2013 forward, and does not dispute the household income figures used by the agency for September 2013 forward.

The agency needed income verification from the petitioner in order to determine eligibility pursuant to the prior fair hearing decision. *BCP Eligibility Handbook, (BCPEH)*, §§9.1 & 9.9, available at <http://www.emhandbooks.wisconsin.gov/bcplus/>. It correctly issued a verification request letter for the wife's income. The agency must give the client at least 10 days to supply requested verification. *Id.*, 9.4. The responsibility for supplying verification then rests on the recipient. However, if the client promptly advises the agency that s/he cannot obtain the verification, the responsibility for obtaining verification shifts to the agency. In this case, the petitioner attempted to advise the agency of his problems with printing off past paystub copies from the employing school district's website, on September 9. He was not successful in reaching the worker, as she was out on leave. The petitioner could have left a message with the call center, but he gave a plausible explanation as to why he did not take that second step. The petitioner was able to reach and print out the paystubs on September 10, and he brought them to the agency. I conclude that the petitioner had good cause for his one-day delay in supplying the paystubs for March through June 2013, and that the adults in his household should be made eligible for BCP for March through June if the household income was not too high in those months.

The petitioner did not have an explanation as to why he did not submit his wife's income verification for July and August until September 16, 2013. He did not state that he made another effort after September

10 (keeping in mind that a denial notice was mailed out on September 10 and would have reached him after his September 10 agency contact) to advise the agency of any problem in producing the July and August verification. Therefore, I will uphold the agency's decision to denial adult BCP eligibility for July and August, 2013.

CONCLUSIONS OF LAW

1. The adults in the petitioner's household should be made eligible for BCP for March through June if the household income was not too high in those months.
2. The agency correctly denied adult BCP eligibility to the petitioner's household for July 2013, forward.

THEREFORE, it is

ORDERED

That the petition is *remanded* to the agency with instructions to redetermine BCP eligibility for the petitioner's household for March through June 2013, in accord with Conclusion of Law #1 above, within 10 days of the date of this Decision. In all other respects, the petition 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 Madison,
Wisconsin, this 21st day of October, 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 October 21, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability