



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/152587

PRELIMINARY RECITALS

Pursuant to a petition filed October 3, 2013, under Wis. Stat., §49.45(5)(a), to review a decision by the Winnebago County Dept. of Human Services to deny Medical Assistance (MA), a hearing was held on November 19, 2013, by telephone.

The issue for determination is whether petitioner failed to verify information.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Leslie Vosters
Winnebago County Dept. of Human Services
P.O. Box 2187
Oshkosh, WI 54903-2187

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Winnebago County.
2. Petitioner applied for BadgerCare Plus (BC+) MA and the Family Planning Waiver on August 30, 2013. She reported that she is pregnant. An interview was conducted on September 5, 2013 by telephone.
3. On September 6, 2013 the agency requested verification of petitioner's pregnancy, state residency, and income. The notice was sent to the address petitioner provided (the [REDACTED] address) but it was returned by the postal service. On September 13 another verification

notice was sent to the [REDACTED] asking for the same information along with proof of her address.

4. On September 24 the agency received copies of pay stubs and a statement that the [REDACTED] was correct. No proof of pregnancy or state residency was received.
5. By a notice dated October 1, 2013, the agency denied MA because petitioner did not provide requested verification.

DISCUSSION

An MA recipient is required to verify information that can affect eligibility. Wis. Admin. Code, §DHS 102.03. If the household fails to verify required information by the time limit, the agency may deny the benefits. Wis. Admin. Code, §DHS 102.03(1). The agency should assist the applicant if she requests assistance. BC+ Handbook, App. 9.8. If sources of verification are unavailable, the agency should use the best information available. Id.

The Handbook, App. 9.11.4, provides as follows:

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.

In this case the county correctly denied BC+ as required. It notified petitioner of the required verification, and it did not receive the verification by the time limit. Petitioner did not request assistance.

Petitioner testified that she did not receive either verification request. She clearly did not receive the first one sent because it was returned by the postal service, but the second was sent to the correct address and was not returned. She also testified that she faxed all of the requested verification to the agency, but only the income information was received by the agency. There is no way for me to determine if petitioner actually sent the pregnancy verification and the Wisconsin residency verification; both are required to determine eligibility.

I have to conclude that the agency action was correct. There is nothing in the rules about granting a good cause exception for failures to provide verification. Thus even if I believe that petitioner had good cause in that there was a problem with the mailing, there is nothing in the rules to provide a remedy other than to have petitioner reapply. I strongly recommend that petitioner reapply for BC+ before December 1, 2013 so that eligibility can be backdated as far back as possible.

CONCLUSIONS OF LAW

The agency correctly denied BC+ because petitioner did not verify necessary information by the deadline.

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 26th day of November, 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 November 26, 2013.

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