



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/153486

PRELIMINARY RECITALS

Pursuant to a petition filed November 15, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA), a hearing was held on December 12, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly terminated petitioner's MA effective December 1, 2013 for failing to provide requested verification.

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, Room 651
Madison, Wisconsin 53703

By: Yia Xiong

Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On October 28, 2013 petitioner had a renewal for MA. The agency requested verification of her last 30 days of employment.
3. On October 28, 2013 petitioner faxed the agency the requested employment verification.

4. On October 29, 2013 the agency issued a written request for the verification. The information was due to the agency on November 7, 2013. Exhibit 1.
5. On November 8, 2013 the agency issued a notice of decision to petitioner stating that effective November 1, 2013 her MA would end because she failed to provide the requested verification.

DISCUSSION

Proof of certain information is required to determine eligibility for BadgerCare Plus. Mandatory and questionable items must be verified at application, review, person addition or deletion, or when there is a change in circumstance that affects eligibility or benefit level. See *BadgerCare + Eligibility Handbook* (BCEH), §9.1, available online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm>.

The issue in this case centers on the agency's request for the petitioner's employment verification. The agency properly requested verification but it had no record of receiving it by the due date. At hearing, petitioner was credible in her testimony as to her fax of that information on the same day as her renewal. She was able to provide a letter from her employer indicating that she had helped petitioner fax the forms and that it occurred on October 28, 2013, and that the fax machine confirmed at that time that the information was sent. I find that the petitioner was able to rebut the agency's argument between her testimony and evidence. As such, I will remand the matter to have the agency redetermine petitioner's eligibility effective December 1, 2013.

CONCLUSIONS OF LAW

The agency did not meet its burden to show that it correctly terminated petitioner's MA on December 1, 2013 for failing to verify.

THEREFORE, it is

ORDERED

That the matter be remanded to the agency with the following instructions: (1) redetermine petitioner's MA eligibility effective December 1, 2013 pursuant to her employment verification as received on October 28, 2013 and (2) issue a notice of decision regarding same. These actions are to be taken within ten (10) days of the date of this decision.

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, Room 651, 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 6th day of January, 2014

\sKelly Cochrane
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 January 6, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability