



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/153783

PRELIMINARY RECITALS

Pursuant to a petition filed December 02, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Sheboygan County Department of Human Services in regard to Medical Assistance, a hearing was held on January 07, 2014, at Sheboygan, Wisconsin.

The issue for determination is whether the Sheboygan County Department of Human Services (the agency) correctly denied the Petitioner's application for BadgerCare+ benefits.

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: Mitch Birkey, Economic Support Specialist
Sheboygan County Department of Human Services
3620 Wilgus Ave
Sheboygan, WI 53081

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sheboygan County.
2. The Petitioner applied for BadgerCare+ benefits for her children on October 31, 2013. (Exhibit 2)

3. On November 5, 2013, the agency sent Petitioner a notice indicating that her application was denied because the children have access to other health insurance. (Exhibit 2)
4. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on December 2, 2013. (Exhibit 1)
5. At the time of application, Petitioner and her children were living in Wisconsin. Petitioner's husband/father of her children was living in California. (Testimony of Petitioner; Exhibit 2)

DISCUSSION

7.3.2 The 80% Current Access Test

Children and BadgerCare+ prenatal members who had access to health insurance, including access due to a qualifying event through an employed family member **who is currently living in the household** are not eligible for BadgerCare+ benefits if:

1. The access was to a HIPPA health insurance plan through a current employer for which the employer paid at least 80% of the premium, or through the State of Wisconsin's health care plan (regardless of plan type, or premium amount contributed by state or local government); and
2. The applicant/member is a child under age 19 and the child is not exempt; and
3. The coverage would begin within three calendar months following:
 - a. The BC+ application filing date; or
 - b. Annual review month; or
 - c. Employment start date

The child or BC+ Prenatal Program member who could have been covered by the health insurance plan are ineligible for BC+ benefits. Children under 19 years of age can become eligible by meeting a deductible.

There are no good cause reasons for not enrolling in a health insurance plan when a person has current access."

Badger Care + Eligibility Handbook §7.3.2, emphasis added.

The Petitioner did not dispute the fact that her children had access to health insurance through their father's employer at the time of application. However, it is also undisputed that the children's father was living in California at the time and not in the household.

Because the children's father was not living in the household, section 7.3.2 does not apply to Petitioner's children and cannot be used as a basis to deny the October 31, 2013 application for benefits filed on behalf of Petitioner's children.

CONCLUSIONS OF LAW

The agency did not correctly deny Petitioner's application for BadgerCare+ benefits for her children.

THEREFORE, it is ORDERED

That the agency re-determine eligibility for Petitioner's children, effective October 1, 2013 forward. The agency shall then issue a notice of decision to Petitioner. The agency shall take all administrative steps necessary to complete these tasks within 10 days 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 10th day of February, 2014.

\sMayumi M. Ishii
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 February 10, 2014.

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