



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/154589

PRELIMINARY RECITALS

Pursuant to a petition filed January 07, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Outagamie County Department of Human Services ["County"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on February 25, 2014.

The issue for determination is whether it was correct to deny petitioner's October 22, 2013 application for BadgerCare Plus MA ["BC+"].

There appeared at that time via telephone 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: Shena Smith, ESS

Outagamie County Department of Human Services
401 S. Elm Street
Appleton, WI 54911-5985

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Outagamie County, Wisconsin.

2. On October 22, 2013 Petitioner applied for BC+
3. The County sent a letter to petitioner dated November 6, 2013 entitled *Notice of Proof Needed*; that letter requested verification of, among other things, petitioner's per capita tribal income with a due date of November 21, 2013.
4. Petitioner did not provide the County with the requested verification of her per capita tribal income until December 16, 2013.
5. By a written notice dated November 22, 2013 entitled *About Your Benefits* the County denied petitioner's BC+ application because the requested verification was not provided in a timely manner.

DISCUSSION

Income and assets are required to be verified for BC+. Wis. Admin. Code § DHS 102.03(3)(a) (December 2008); *BadgerCare + Eligibility Handbook* ["BC+EH"] 9.1 & 9.9.0.8. The applicant has primary responsibility for providing verification and to resolve questionable information. *Income Maintenance Manual* ["IMM"] 9.1.3.3. An application may be denied if verification is not provided in a timely manner. Wis. Admin. Code § DHS 102.03(1) (December 2008); BC+EH 9.2. However, an application cannot be denied unless the applicant is able to produce the required verification but refuses or fails to do so. Wis. Admin. Code § DHS 102.03(1) (December 2008); BC+EH 9.8 & 9.11.4.1.

Petitioner did not provide the requested verification in a timely manner. She does not deny this. Therefore, it was correct to deny petitioner's BC+ application because verification was not provided in a timely manner.

Petitioner argues that when she received the November 6th *Notice of Proof Needed* letter she did not see the note at the bottom requesting verification of her per capita tribal income. A she also testified that she lost her grandmother on August 14th and was overwhelmed and stressed. These are unfortunate circumstances, but the required verification was not received by the deadline, therefore, the County's action must be sustained.

CONCLUSIONS OF LAW

For the reasons discussed above, it was correct to deny petitioner's October 22, 2013 application for BC+.

NOW, 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, 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 Madison,
Wisconsin, this 13th day of March, 2014

\sSean P. Maloney
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 March 13, 2014.

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