



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/154673

PRELIMINARY RECITALS

Pursuant to a petition filed January 13, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance, a hearing was held on February 06, 2014, at Racine, Wisconsin.

NOTE: The record was held open to allow Petitioner an opportunity to submit a money gram receipt. It has been marked as Exhibit five and entered into the record.

The issue for determination is whether the Racine County Department of Human Services (the agency) correctly terminated BadgerCare+ benefits for her son.

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: Rhonda Kramer, Lead Financial Employment Planner; Economic Support
Specialist

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.

2. On November 18, 2013, the agency sent Petitioner a notice that her son's Badge Care+ Benefits would end effective December 1, 2013, because she did not pay the premium. The notice further indicated that if the Petitioner wanted to continue her son's benefits, she would have to pay the premium, "by the end of the next month" and that her son would face restrictive re-enrollment if the premium was not paid. (Exhibit 3)
3. On December 31, 2013, the Petitioner obtained a money order to pay the premium, but was not able to actually make the payment, because the county agency was closed for the New Year's Holiday. (Testimony of Petitioner; Exhibit 4)
4. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on January 1, 2013.

DISCUSSION

Unless a member of a category of exempt individuals (i.e. pregnant women under age 19, continuously eligible newborns, etc.) the following individuals must pay a premium to become or remain eligible for BadgerCare+:

1. Children in families with income over 200% of the Federal Poverty Level (FPL)
2. Parents, stepparents and caretaker relatives with income over 133% through 200% of the FPL
3. Parents, stepparents and caretaker relatives with income over 133% in a BadgerCare+ extension and
4. Self-employed parents, stepparents and caretaker relatives with income above 200% of the FPL before subtracting the depreciation but below 200% of the FPL after subtracting the depreciation.

BadgerCare+ Eligibility Handbook (BEH) §19.1

If an individual under age 19 fails to pay the premium, his BadgerCare+ case will close and he will not be allowed to re-enroll in BadgerCare+ for 6 months, unless the failure to pay was for good cause. Wis. Adm. Code § DHS 103.085(3)(b)1; *BEH § 19.8.1*

Good cause for not paying a premium includes the following:

1. Problems with the financial institution.
2. CARES problem.
3. Local agency problem.
4. Wage withholding problem.
5. Fair hearing decision.

BadgerCare Plus Eligibility Handbook, § 19.8.3

It is undisputed that Petitioner did not pay the required premium by the designate deadlines. Petitioner asserts that she had good cause for her failure to pay the premiums on time, because she had so many other bills to pay in November 2013, that she just forgot about the BadgerCare+ premium. The Petitioner stated that she gets paid twice per month and that she used her December 15, 2013 paycheck to pay other bills, and then when she was paid on December 31, 2013, she attempted to pay the premium on that same day, but was unable to do so, because the county agency was closed for the holidays.

Regrettably, inability to pay the required premium due to a holiday or obligations to pay other bills is not considered good cause under *BEH §19.8.3*.

The Petitioner expressed a great deal of concern, because her son suffers from Attention Deficit Hyper Activity Disorder and requires prescription medication to control his illness, but the Petitioner has not been able to afford the cost of a full prescription.

One might argue that it is not fair to punish Petitioner's son, for her failure to act. One might even be right about that. However, an Administrative Law Judge is not allowed to consider such equitable arguments, but

must instead apply the law as it is written. *See Oneida County v. Converse*, 180 Wis.2nd 120, 125, 508 N.W.2d 416 (1993) Thus, it is found that the county agency correctly terminated the Petitioner's BadgerCare+ benefits.

The Petitioner might consider conducting an internet search for discount programs or assistance programs to help her purchase the Adderall XR tablets that her son needs.

CONCLUSIONS OF LAW

The agency correctly terminated the BadgerCare+ benefits for her son, effective December 1, 2013.

THEREFORE, it is ORDERED

That 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, 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 24th day of March, 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 March 24, 2014.

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