



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/155551

PRELIMINARY RECITALS

Pursuant to a petition filed February 13, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on March 18, 2014, at Milwaukee, Wisconsin. The record was held open for two weeks post-hearing to allow the agency to review the case file and submit additional evidence. Additional information was received on March 20, 2014 and the record was closed.

The issue for determination is whether the Petitioner’s appeal is timely and, if so, whether the agency should have backdated the Petitioner’s request for healthcare.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Pang Xiong
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County.

2. On November 19, 2007, the Petitioner requested healthcare. Petitioner provided paystubs to the agency. The agency requested verification of employer health insurance. On December 10, 2007, the agency received verification that the Petitioner does not have employer health insurance.
3. The agency's case comments for December 10, 2007 indicate that the Petitioner's case was opened for December 1, 2007 – December 31, 2007 with a premium of \$125 for Petitioner and her husband. There is no indication that the Petitioner received notice of the agency's determination.
4. At the time of her application, the Petitioner had earned income of \$718.78/pay period from [REDACTED] Healthcare. Petitioner's earned income was \$1158.30/pay period from [REDACTED]. Petitioner and her husband had self-employment income of 460/month. Total monthly gross income was \$4,214.10. This is 294.52% of the Federal Poverty Level at that time.
5. On January 14, 2008 and January 18, 2008, the agency issued Notices of Decision to the Petitioner informing her that healthcare for herself and her husband was denied due to income over the program limit. Petitioner's son was eligible for benefits as of February 1, 2008 with a premium of \$76/month. The notices also informed the Petitioner of the right to appeal the agency determination by filing an appeal with the Division of Hearings and Appeals by March 17, 2008.
6. On February 4, 2008, the agency issued a Notice of Decision to the Petitioner informing her that her son's premium is reduced effective March 1, 2008 to \$63/month. The notice informed the Petitioner of the right to appeal by April 15, 2008.
7. A premium payment of \$76 was made on February 15, 2008.
8. On March 12, 2008, the agency issued a Notice of Decision to the Petitioner informing her that she and her husband were eligible for BC+ benefits effective April 1, 2008 with a monthly premium of \$132.
9. In December, 2013, the Petitioner received a bill for medical services from [REDACTED] Hospital incurred in November, 2007.
10. On February 13, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

A. Timeliness

According to the agency's information, a determination of Petitioner's eligibility was made in December, 2007 but there is no notice to demonstrate that Petitioner received written confirmation of her eligibility, premium due and the dates of eligibility at that time. Because the issue is the eligibility determination at that time and there is no indication that Petitioner was aware of the determination, I cannot conclude that the Petitioner's appeal is untimely as the agency argues. I will, therefore, consider the merits of the case.

B. Backdate

The Petitioner contends that she requested a backdate of her application for healthcare benefits. The Petitioner testified that she contacted the agency in December, 2007 to request the backdate to September, 2007 and was told that her case was backdated.

The agency contends that the records do not indicate that the Petitioner requested a backdate in December, 2007. The agency further asserts that, even if the Petitioner did request a backdate at that time, the request would have been denied because the Petitioner's monthly household income exceeded 150% of the federal poverty level, making her ineligible for backdated coverage. The agency notes that if

the Petitioner had requested a backdate, the agency would have been required to gather wage information for the previous 3 months and there is no indication in the records that this was done. In addition, if the Petitioner's coverage had been backdated, she would have had to pay a premium for the 3 months of backdated coverage in order for it to be effective and no premium was received for September – November, 2007.

The policy regarding backdating coverage at the time of the Petitioner's request in December, 2007 states that children and parents could have their eligibility backdated up to the first of the month, three calendar months prior to the month of application for any of the months in which their family income was at or below 150% of the federal poverty level. A backdate request could be made at any time, except where a member was already enrolled and backdating would result in a deductible for the backdated period. BadgerCare Plus Handbook (BCP Handbook) § 25.8.1 (2007).

There is no evidence in the record to support that the Petitioner requested backdated coverage. As the agency notes, the Petitioner's gross household income at the time of application was \$4,214.10/month which was 294.52% of the federal poverty level. Even if the Petitioner did request backdated coverage, she was not eligible for it unless her income was significantly less in September and October, 2007 than it was when she applied in November, 2007.

Without more, I must find that the evidence is insufficient to allow me to conclude that the Petitioner requested backdated coverage to September, 2007 and/or that she was eligible for backdated coverage for the period of September – November, 2007.

CONCLUSIONS OF LAW

The Petitioner's appeal is timely. There is no evidence that the Petitioner requested or was eligible for backdated healthcare coverage for the period of September – November, 2007.

THEREFORE, it is

ORDERED

That the Petitioner's appeal 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

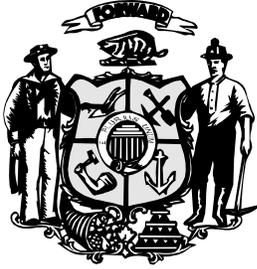
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

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 6th day of May, 2014

\sDebra Bursinger
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 May 6, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability