



**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCC/155711

PRELIMINARY RECITALS

Pursuant to a petition filed February 25, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Rusk County Department of Social Services in regard to Medical Assistance, a hearing was held on March 19, 2014, at Ladysmith, Wisconsin.

The issue for determination is whether the county agency correctly ended the petitioner's BadgerCare Plus Core Plan benefits because she did not sign her renewal application.

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: Beulah Garcia

Rusk County Department of Social Services
Courthouse
311 Miner Avenue East, Suite C240
Ladysmith, WI 54848

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Rusk County.

2. On December 16, 2013, the Centralized Data Processing Unit notified the petitioner that she must renew her BadgerCare Plus Core Plan benefits by January 31, 2014, or there could be a gap in her coverage. The notice indicated that she could renew by mail, online, or telephone.
3. The CDPU notified the petitioner on January 17, 2014, that her BadgerCare Plus Core Plan benefits would end as of February 1, 2014, unless she completed her renewal by the end of January.
4. The CDPU notified the petitioner on January 29, 2014, that her medical assistance was denied because she had not completed her renewal application. The notice indicated that she could remain eligible if she completed her renewal by the end of the month.
5. The petitioner contacted the agency on January 9 and January 22, 2014, to obtain the proper form to renew her BadgerCare Plus Core Plan benefits. She received the wrong form each time. The agency worker did not offer to allow her to renew her benefits over the telephone.
6. The petitioner renewed her BadgerCare Plus Core Plan benefits by telephone on February 12, 2014. The case notes indicate that she completed a “telephonic signature” of her application on that date.
7. The CDPU notified the petitioner on February 13, 2014, that she would receive BadgerCare Plus Core Plan benefits as of February 15, 2014.
8. The petitioner was ineligible for BadgerCare Plus Core Plan benefits from February 1 – 15, 2014. She seeks reinstatement retroactive to February 1, 2014.

DISCUSSION

The BadgerCare Plus Core Plan expanded medical assistance to allow adults without dependent children who would not otherwise qualify for the program to receive benefits. Wis. Stat. § 49.45(23); *BadgerCare Plus Eligibility Handbook*, § 43.2. Each year, those seeking benefits must renew their application and pay a \$60 fee. *BadgerCare Plus Eligibility Handbook*, § 43.4.1. Those who fail to complete all renewal requirements within 12 months of when they previously became eligible are terminated from the program. They can reenroll if they meet all of the program’s renewal requirements by the later of last day of the 13th month after most recently being found eligible or 10 days after the agency requests verification or payment of the \$60 fee. *BadgerCare Plus Eligibility Handbook*, § 43.9. Enrollment begins on the 1st or the 15th day of the month. *BadgerCare Plus Handbook*, § 43.5.2.

The petitioner is an ongoing recipient of BadgerCare Plus Core Plan benefits whose renewal was due by January 31, 2014. The agency ended her benefits on February 1, 2014, because it contends she failed to complete her renewal on time. She contends that she tried to complete the renewal but that the agency failed to send her the form. She testified, and agency notes confirm, that she called on January 9, and January 22, 2014, requesting forms. The agency says that the petitioner requested forms for other programs, but she disputes this.

The petitioner is the only person with first-hand knowledge of these calls who testified. Hearsay is admissible in administrative hearings, but first-hand testimony is preferable because the person testifying can be questioned and judged for credibility. The petitioner seemed honest. In addition, the Centralized Data Processing Unit had sent her notices about her benefits on December 16, 2013, and January 17, 2014. The second notice indicated that her benefits would end as of February 1, 2014, unless she completed her renewal. It seems likely that she would respond to these requests and call the agency. She finally was able to renew her benefits by telephone on February 12, 2014, and her benefits were reinstated on February 15. She seeks benefits retroactive to February 1, 2014.

BadgerCare Plus policy generally does not allow backdating or retroactive eligibility for Core plan benefits, but it does if “an agency delay in application processing would otherwise result in a loss of coverage.” *BadgerCare Plus Handbook*, § 43.5.2.1. The petitioner has the burden of proving that she is eligible by the preponderance of the credible evidence. This is a fairly low burden which requires only that she prove that it is more likely than not that she meets the eligibility requirements. Based upon the evidence before me, I find that she did attempt to renew her benefits but was prevented from doing so because the agency did not respond to her requests for the proper documents. Because her alleged failure to renew her benefits is all that prevents her from being eligible as of February 1, 2014, I find that her eligible retroactive to that date.

CONCLUSIONS OF LAW

The petitioner is eligible for retroactive BadgerCare Plus Core Plan benefits because the agency’s delays caused her loss of eligibility.

THEREFORE, it is

ORDERED

That this matter is remanded to the county agency with instructions that within 10 days of the date of this decision it reinstate the petitioner into the BadgerCare Plus Core Plan program retroactive to February 1, 2014.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 9th day of April, 2014

\sMichael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on April 9, 2014.

Rusk County Department of Social Services
Division of Health Care Access and Accountability