



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/157429

PRELIMINARY RECITALS

Pursuant to a petition filed May 6, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to the beginning date of eligibility under Medical Assistance, a telephone hearing was held on May 28, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the Department correctly determined the petitioner's beginning date of eligibility for BadgerCare Plus.

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: Simone Johnson, IM Specialist
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kenneth D. Duren, Assistant Administrator
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. She applied for Medical Assistance on February 25, 2014.
2. Subsequently, on February 27, 2014, the agency requested that the petitioner verify her income, for BadgerCare purposes, by March 27, 2014. The letter also told her to do so for FoodShare purposes by March 7, 2014.

3. On March 17, 2014, the agency issued a Notice to the petitioner informing her that her application for MA-BadgerCare would be denied, effective April 1, 2014, because she had not verified her income.
4. On March 21, 2014, the petitioner verified that her sole source of income was \$141 per month in pension benefits.
5. On March 24, 2014, the Department issued a Notice informing the petitioner that effective April 1, 2014, she would be eligible for BadgerCare Standard Plan without a deductible. No benefits were granted for any date prior to application.
6. The petitioner at 59 years of age, is not 65 years old or older, 18 years old or younger, blind or disabled, the caretaker of minors, or pregnant.

DISCUSSION

The petitioner here was found eligible effective April 1, 2014 under BadgerCare Plus. However, she applied on February 25, 2014, and she wants backdated eligibility to cover her retroactively. Prior to April 1, 2014, the only type of MA-Badger care potentially available to her was the BadgerCare Plus *Core Plan* coverage for childless adults. That program, however, discontinued effective April 1, 2014. Under a new law passed by the Legislature, effective April 1, 2014, *any* childless adult may be non-financially eligible for MA-BC, but the income limit allowable is lower than before.

The current incarnation of *BadgerCare Plus* is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. The program's nonfinancial eligibility standards were broadened effective April 1, 2014, to include adults who do not have minor children in their home. Wis. Stat. § 49.45(23); 2013 Wisconsin Act 116, § 29, for effective date; *BadgerCare Plus Eligibility Handbook (BCPEH)*, §2.1, online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> (viewed in April 2014). The petitioner meets the nonfinancial eligibility tests for the program.

The petitioner must also pass an income test. Effective April 1, 2014, an eligible adult applicant cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1. The 100% FPL amount is \$972.50 monthly for a household of one, \$1,310.83 for a household of two persons, and \$1,649.17 for a household of three in 2014. *Id.*, § 50.1. The petitioner's income is, \$141, and she passes the income test too. She is prospectively eligible for BadgerCare Plus, effective April 1, 2014.

BC+ eligibility begins the first day of the month in which the valid *application* is submitted and all eligibility requirements are met, with the following exceptions. *BadgerCare Plus Eligibility Handbook (BCPEH)*, §25.8.1. Enrollment in the Core Plan begins on the next available enrollment period (always the 1st or the 15th of the month) after all eligibility requirements have been met; and eligibility has been confirmed and transmitted. *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 43.5.2 (BCPEH, Release 14-01), at p. 316.

In February and March, 2014, and indeed, any time in the three months prior to application, the petitioner was not eligible for BadgerCare Plus because that sub-program did not allow childless adults to be eligible under previous non-financial criteria. Likewise, as to the Core Plan, backdating was not available and the first date the petitioner would have been eligible even if she were, would have been the same day, April 1, 2014, which was the 1st of the month after all eligibility criteria was arguably met when she verified her income on March 21, 2014.

There is no exception under law for these circumstances. The petitioner was first eligible for BC Plus on April 1, 2014, and the agency action is affirmed.

CONCLUSIONS OF LAW

That the Department correctly determined that the beginning date of the petitioner's eligibility for any class of Medical Assistance was under BadgerCare Plus, effective April 1, 2014, after new law allows childless adults to receive regular BC Plus benefits; and the petitioner was not eligible for any backdated MA under any variant of MA prior to April 1, 2014.

THEREFORE, it is

ORDERED

That the petition for review herein be, and the same hereby is, dismissed.

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 10th day of June, 2014

\sKenneth D. Duren, Assistant Administrator
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 June 10, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability