



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/157580

PRELIMINARY RECITALS

Pursuant to a petition filed May 10, 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 June 10, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly denied the Petitioner’s BC+ benefits effective April 1, 2014.

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: Jose Sylvestre
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 April 3, 2014, the agency processed the Petitioner’s application for BC+ benefits.

3. On April 17, 2014, the agency received an employer verification from the Italian Community Center reporting the Petitioner's earned income as 18 hours/week at \$8.00/hour. The Petitioner submitted pay statements representing 30 days of wages.
4. Petitioner received unemployment compensation benefits in March and April, 2014. The benefits fluctuated due to Petitioner's fluctuating earned income.
5. On May 23, 2014, the agency issued a Notice of Decision informing the Petitioner that her application for BC+ benefits was denied. The agency budgeted earned income of \$725.92/month and unemployment compensation benefits of \$249/month (\$62.25 average/week) for total household income of \$974.92/month.
6. Petitioner received \$217 in UC benefits for the period of March 11, 2014 – April 1, 2014 as follows:

March 11, 2014	\$86.00
March 18, 2014	\$30.00
March 24, 2014	\$12.00
April 1, 2014	\$89.00
7. The income limit for BC+ for a household of one is \$972.50.
8. Petitioner's UC benefits ended in or about May, 2014. Petitioner was opened for BC+ benefits effective June 1, 2014.
9. Petitioner filed an appeal with the Division of Hearings and Appeals on May 10, 2014.

DISCUSSION

BadgerCare Plus (BC+) is Wisconsin's medical assistance program for those who are not elderly or disabled. Wis. Stat. § 49.471. Since April 1, 2014, BadgerCare Plus allows adults to be eligible only if their income is below 100% of the federal poverty level. Wis. Stat. § 49.471(4)(a). In determining household income, the agency must budget all taxable earned income and must budget unemployment compensation income. BC+ Handbook, §§16.1 and 16.5.

The agency testified that it calculated an average of \$62.25/week or \$249/month for Petitioner's unemployment compensation benefits for the weeks of March, 11, 18, 24 and April 1, 2014. The UC benefits summary submitted by the agency indicates the Petitioner's average UC benefits for that period of time was \$54.25. His actual income from UC was \$217 for the previous 30 days. Based on his actual income and the average UC benefit, I conclude the agency should have calculated his monthly income as \$780.17/month (\$725.92 in earned income and \$54.25/week in UC benefits). This is under the income limit and he was, therefore, eligible for BC+ benefits effective April 1, 2014.

CONCLUSIONS OF LAW

The agency did not properly determined the Petitioner's eligibility for BC+ benefits.

THEREFORE, it is

ORDERED

That this matter is remanded to the agency to take all administrative steps necessary to revise its determination to reflect that the Petitioner was eligible for BC+ benefits effective April 1, 2014. This action shall be completed within 10 days of the date of this decision.

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 23rd day of July, 2014

\sDebra Bursinger
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 July 23, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability