



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/157591

PRELIMINARY RECITALS

Pursuant to a petition filed May 12, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Washington County Department of Social Services in regard to Medical Assistance, a hearing was held on June 12, 2014, at West Bend, Wisconsin.

The issue for determination is whether the Washington County Department of Social Services (the agency) correctly denied the Petitioner's application for BadgerCare+ benefits.

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: Chris Fresh, Economic Support Specialist
Washington County Department of Social Services
333 E. Washington Street
Suite 3100
West Bend, WI 53095

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Washington County.
2. On April 2, 2014, the Petitioner completed an on-line application for BadgerCare+ benefits. (Exhibit 2)

3. On April 23, 2014, the agency sent the Petitioner a Notice of Proof Needed, requesting income verification from [REDACTED] by May 2, 2014. (Exhibit 2)
4. On May 5, 2015, the agency sent the Petitioner a notice, advising him that his application for benefits was denied, because he had not provided the requested proof. (Exhibit 2)
5. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on May 12, 2014. (Exhibit 1)

### DISCUSSION

“Verification means to establish the accuracy of verbal or written statements made by, or about a group's circumstances. Case files or case comments must include documentation for any information required to be verified to determine eligibility or benefit levels.” *BadgerCare+Handbook (BEH) §9.1* Proof of certain information is required to determine eligibility for BadgerCare+. *BEH §9.1* Items that must be verified are categorized as information that it is mandatory to verify and information that is questionable.

Items that it is mandatory to verify are:

1. Social Security Number
2. Citizenship and Identity
3. Immigrant Status
4. Pregnancy, if eligibility is based on the pregnancy, although as of January 1, 2014, it will no longer be necessary to verify pregnancy.
5. Medical Expenses (for deductibles only)
6. Documentation for Power of Attorney and Guardianship
7. Migrant worker's (eligibility in another state)
8. Income
9. Health Insurance Access
10. Health Insurance Coverage
11. Family Re-unification plan for Child Welfare Parents
12. The placement status of a FFCY on his/her 18<sup>th</sup> birthday
13. Tribal membership or Native American Descent
14. Pre-tax Deductions
15. MAGI Tax Deductions

*BEH §9.9*

Information is questionable for BC+ when:

1. There are inconsistencies in the group's oral or written statements.
2. There are inconsistencies between the group's claims and collateral contacts, documents, or prior records.
3. The member or his/her representative is unsure of the accuracy of his/her own statements.
4. The member has been convicted of Medicaid or BC+ fraud or has legally acknowledged his/her guilt of member fraud. Do not require a member to provide verification for the sole reason that they have acknowledged or been convicted of fraud in any other public assistance or employment program.
5. The member is a minor who reports that s/he is living alone. This does not apply to minors applying solely for Family Planning Services.
6. The information provided is unclear or vague.

*BEH §9.10*

“Except for verification of access to employer sponsored health insurance, the member has primary responsibility for providing verification and resolving questionable information. However, the income maintenance worker must use all available data exchanges to verify information rather than requiring the applicant  to provide it.” BEH §9.8

BadgerCare+ benefits may be reduced when all of the following are true:

1. The member has the power to produce the verification.
2. The time allowed to produce the verification has passed.
3. The member has been given adequate notice of the verification required.
4. The agency needs the requested verification to determine current eligibility.

BEH §9.11.4

Current benefits may not be denied or reduced because a member does not verify some past circumstance not affecting current eligibility. *Id.*

An application may be denied for failure to provide verification only if:

1. Requested information or verification is required by program policy to determine eligibility ([Chapter 9](#)), and
2. The applicant had the power to produce the information or verification, within the period, but failed to do so, and
3. The applicant had a minimum of 10 days to produce the verification.

BEH §25.7.1

In the case at hand, the Petitioner was only given nine days to produce verification of his income, from April 23, 2014 to May 2, 2014. As such, the agency incorrectly denied his application for BC+.

The agency will have to issue to the Petitioner a new request for verification of his income from April 2014 forward so that it can determine his eligibility for BadgerCare+ benefits from that time forward.

It should be noted that at the hearing, the Petitioner indicated that the EVFE needed to be sent to a corporate HR person for completion and as such, he did not have the power to produce the EVFE by the May 2, 2014 deadline. If the Petitioner did not have the ability to provide the requested verification, the agency should not have closed his case per BEH §25.7.1, above. **However, the Petitioner should note that he can use his paystubs as income verification.**

If the Petitioner still disagrees with the agency’s new eligibility determination, the Petitioner will have to file a NEW appeal.

**CONCLUSIONS OF LAW**

The agency incorrectly denied the Petitioner’s application for BadgeCare+ benefits.

**THEREFORE, it is ORDERED**

That the agency issue to the Petitioner a new request for verification giving him at least 10 days to produce verification. Immediately upon receipt of that verification, the agency shall determine the

Petitioner's eligibility for the BadgerCare+ program from April 1, 2014 forward. The agency shall take all administrative steps to complete these tasks within 20 days 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 15th day of July, 2014.

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\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 July 15, 2014.

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