



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/158704

PRELIMINARY RECITALS

Pursuant to a petition filed July 01, 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 August 05, 2014, at West Bend, Wisconsin.

The issue for determination is whether the agency correctly terminated the Petitioner's 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: Julie Williams, 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 May 12, 2014, the agency sent the Petitioner a notice reminding her that she needed to complete a renewal by June 30, 2014 in order to continue receiving BadgerCare+ benefits. (Exhibit 3, pg. 3)
3. On June 18, 2014, the agency sent the Petitioner a notice indicating that her healthcare benefits would be ending effective July 1, 2014. The notice did not state the reason why Petitioner's benefits would be ending (Exhibit 3, pgs. 7 and 8)
4. The agency issued the June 18, 2014 notice, because Petitioner had not yet completed her renewal (Testimony of Julie Williamson, Economic Support Specialist)
5. On June 23, 2014, the Petitioner contacted the agency and chose to complete a renewal, via telephone interview. (Exhibit 3, pg. 2)
6. On June 24, 2014, the agency sent the Petitioner a notice of proof needed requesting verification of employment and income by July 3, 2014. (Exhibit 3, pgs. 11-13)
7. On that same date, the agency sent the Petitioner a renewal summary with an electronic signature dated July 23, 2014. (Exhibit 14-20)
8. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on July 1, 2014. (Exhibit 1)
9. On July 7, 2014, the agency sent the Petitioner a notice indicating that as of August 1, 2014, she was not enrolled in BadgerCare+ because she did not provide the requested proof. (Exhibit 3, pgs. 21-23)

DISCUSSION

In order to continue receiving BadgerCare+ benefits, BadgerCare recipients must timely complete a renewal. *BadgerCare+ Eligibility Handbook (BEH) §26.1.1* Renewals are conducted 12 months from the certification month, unless the member is a Continuously Eligible Newborn, a pregnant woman or for cases that did not meet their deductible. *Id.*

The member has the choice of the following methods for any BC + renewal:

1. Face-to-Face Interview.
2. Mail-In (paper [application](#) or pre-printed renewal packet).
3. Telephone Interview.
4. ACCESS (<https://access.wisconsin.gov/access/>)

BEH §26.2 Choice of Renewal

In the case at hand, Petitioner needed to complete a renewal by June 30, 2014, in order to continue receiving benefits. The Petitioner completed her renewal by phone on June 23, 2014. As such, the agency incorrectly ended Petitioner's benefits effective July 1, 2014.

It should be noted that the notice that was sent to Petitioner advising her of the July 1, 2014 notice was defective. Per Income Maintenance Manual §3.2.2, notices of negative action must include "the reason(s) for the intended action, including a citation to the law, regulation, rule or policy that support or requires the action." The June 18, 2014 notice did not explain why Petitioner's benefits would be ending effective July 1, 2014. Because the notice was defective, the agency cannot terminate Petitioner's benefits effective July 1, 2014.

However, the agency had issued a notice of proof needed dated June 24, 2014, requesting proof of income by July 3, 2014. The Petitioner did not timely submit the requested income verification by the stated deadline. BEH §9.3 states, “The group's eligibility should not be denied for failure to provide the required verification until the 10th day after requesting verification or the end of the renewal month whichever is later.” The agency made the decision to close Petitioner’s case on July 7, 2014, 13 days after requesting verification of Petitioner’s income. Consequently, the agency correctly terminated Petitioner’s BadgerCare+ benefits effective August 1, 2014.

It should be noted that the agency contends that even if the Petitioner timely provided the requested proof, that she would not have been financially eligible for the BadgerCare+ program.

As of April 1, 2014, adults must have household income below 100% of the Federal Poverty Level, in order to be eligible for BadgerCare+ benefits. *BEH §16.1.1*

Petitioner provided two bi-weekly paystubs for June 2014. One check showed gross income of \$1073.49 the other showed gross income of \$617.24, For a total of \$1690.73. (Exhibit 2, pgs. 7 & 8)

Under MAGI (Modified Adjusted Gross Income) Rules, which are effective for new eligibility determinations made April 2014 or later, the BadgerCare+ test group is based upon an individual’s tax household, not necessarily the physical household or family relationships. *BEH §2.3.2* Thus, for BadgerCare+ purposes, Petitioner’s test group consists of herself and her child, even though she lives with the father of her child and his son from another relationship. This is because Petitioner does not claim either the father of her child or his son as a dependent on her taxes. *See also BEH §2.3.2.3*

100% of FPL for a household of two is \$1310.83. *BEH §50.1* Petitioner’s gross income of \$1690.73 is over that income limit. As such, the agency is correct; even if verifications were timely received, Petitioner was over the income limit.

The Petitioner testified that she suffered severe vaginal tearing during the birth of her child and will require surgery to repair the damage. The Petitioner also testified that because of these injuries she has not been able to work as much.

If Petitioner’s income has decreased below \$1690.73 per month, she can reapply for BadgerCare+ benefits. If not, the Petitioner might want to consider applying for coverage through the insurance marketplace at healthcare.gov.

CONCLUSIONS OF LAW

1. The agency incorrectly terminated the Petitioner’s BadgerCare+ benefits effective July 1, 2014.
2. Petitioner’s benefits should have ended effective August 1, 2014.

THEREFORE, it is

ORDERED

That the agency reinstate Petitioner’s benefits for July 2014. The agency shall take all administrative steps necessary to complete this task within 10 days of this decision.

The petition in all other respects 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 29th day of August, 2014.

\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 August 29, 2014.

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