



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/161187

PRELIMINARY RECITALS

Pursuant to a petition filed October 13, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Kenosha County Human Service Department in regard to Medical Assistance, a hearing was held on November 11, 2014, at Kenosha, Wisconsin.

The issue for determination is whether the agency correctly denied Petitioner’s June 13, 2014 application for BadgerCare (BC) Plus.

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: Karen Mayer

Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Kenosha County.
2. On June 13, 2014 Petitioner applied for BadgerCare (BC) Plus for herself. At that time Petitioner’s children were open and receiving BC Plus benefits.

3. Previously Petitioner was not eligible for BC Plus for herself because she had a monthly annuity in the amount of \$1925, and student loan interest in the amount of \$192.75 for a total monthly gross income of \$1732.25. Petitioner's children were still eligible for BC Plus benefits.
4. Petitioner reapplied on June 13, 2014 even though her income had not changed. She reapplied because she believed that she was disabled and should qualify for BC Plus due to her disability.
5. On July 15, 2014 the agency mailed Petitioner a verification request for the amount of the annuity. The verification was due by July 31, 2014. The agency had verification of Petitioner's annuity of pension income from February 2013, but needed a more recent statement for verification. Petitioner failed to provide the requested verification.
6. On August 1, 2014 the agency sent Petitioner a notice stated that her childrens' healthcare benefits would be ending as of September 1, 2014 because Petitioner had not verified her income.
7. On October 13, 2014 the Division of Hearings and Appeals received Petitioner's request for fair hearing via facsimile.

DISCUSSION

BadgerCare (BC) Plus is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. In order to qualify for BC Plus Petitioner must meet all the financial and nonfinancial eligibility requirements. Wis. Stat. § 49.45(23); 2013 Wisconsin Act 116, § 29, for effective date; *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1, at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> (viewed in November 2014). A nonfinancial eligibility requirement is that the applicant provides verification of income. *BCPEH* § 9.9.

The applicant must also pass an income test. An eligible applicant cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL) for adult family members and 300 % FPL for child family members. Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1. The 100% FPL amount is \$972.50 monthly for a household of one, and \$1,310.83 for a household of two, and \$1,649.17 for a household of three persons in 2014. *Id.*, § 50.1. The income limits for a child are 300% of FPL. Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1. The 300% FPL amount is \$4947.50 monthly for a household of three.

In this case the agency denied Petitioner's application for failing to provide the requested verification. Even if Petitioner had provided the correct verification she would have been ineligible for BC Plus coverage for herself. Petitioner agrees that her income is over the BC Plus program limits for herself. Had Petitioner provided the correct verification, Petitioner's children would not have had a lapse in their BC Plus coverage. Petitioner's children did not see a doctor or incur any medical bills during this coverage lapse. At the hearing Petitioner was instructed to reapply for BC Plus benefits for her children that same day. Assuming Petitioner reapplies and provides the correct verification of her annuity amount, her children should qualify for BC Plus coverage, and the lapse in coverage should have had no impact on her children.

Petitioner believed that she should receive medical coverage because she is disabled. BC Plus is not a program that is available to people simply because they are disabled. Anyone receiving BC Plus must meet both the financial and non-financial eligibility requirements. Petitioner is correct that there is a State Medicaid program that provides medical benefits for disabled people. Following the hearing I looked into the status of Petitioner's Medicaid and SSDI/SSI application. Petitioner's applications for state Medicaid and SSDI/SSI were denied. Her federal case is waiting to be assigned to a federal ALJ. She did not request reconsideration of that the State Medicaid determination, and therefore never received a hearing in that case. It is important to note that the State Medicaid determination is bound by the federal SSDI/SSI denial. The undersigned ALJ e-mailed this information to both parties as a courtesy. Neither the State Medicaid or federal SSDI/SSI denials were at issue in this appeal.

CONCLUSIONS OF LAW

The agency correctly denied Petitioner's application for BC Plus when Petitioner failed to provide proper verification of her income.

THEREFORE, it is

ORDERED

That the Petition 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

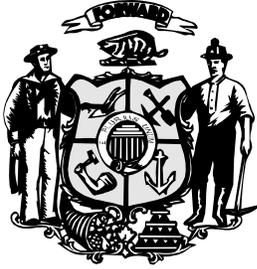
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

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 18th day of November, 2014

\sCorinne Balter
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 November 18, 2014.

Kenosha County Human Service Department
Division of Health Care Access and Accountability