



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[Redacted]
[Redacted]
[Redacted]

DECISION

BCS/161784

PRELIMINARY RECITALS

Pursuant to a petition filed November 05, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Marathon County Department of Social Services ["County"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on January 13, 2015. At petitioner's request a Hearing scheduled for December 16, 2014 was rescheduled.

The issue for determination is whether it was correct to end petitioner's MA BadgerCare Plus ["BC+"] effective August 1, 2014.

There appeared at that time via telephone 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: [Redacted], ESS
Marathon County Department of Social Services
400 E. Thomas Street
Wausau, WI 54403

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]; 37 years old) is a resident of Marathon County, Wisconsin.

2. Petitioner was receiving BC+ and a review was due in July 2014.
3. The County sent petitioner a *Notice of Action and Proof Needed* letter dated August 18, 2014 requesting verification of her employment at [Redact] with a due date of August 27, 2014.
4. On August 25, 2014 petitioner contacted the County stated that [Redact] did not fill out the verification form and that she was having trouble getting the requested verification from [Redact].
5. By an *About Your Benefits* letter notice dated August 28, 2014 the County informed petitioner that her BC+ ended as of August 1, 2014 due to failure to provide verification.

### DISCUSSION

Income and assets are required to be verified for BC+. Wis. Admin. Code § DHS 102.03(3)(a) (December 2008); *BadgerCare + Eligibility Handbook* ["BC+EH"] 9.1 & 9.9.0.8. The applicant has primary responsibility for providing verification and to resolve questionable information. *Income Maintenance Manual* ["IMM"] 9.1.3.3. An application may be denied if verification is not provided in a timely manner. Wis. Admin. Code § DHS 102.03(1) (December 2008); BC+EH 9.2. However, an application cannot be denied unless the applicant is able to produce the required verification but refuses or fails to do so. Wis. Admin. Code § DHS 102.03(1) (December 2008); BC+EH 9.8 & 9.11.4.1. Furthermore, if an applicant or recipient is not able to produce verifications, or requires assistance to do so, the agency may not deny assistance but must proceed immediately to verify the data elements. Wis. Admin. Code § DHS 102.03(1) (December 2008); BC+EH 9.8 & 9.11.4.1.

In this case petitioner the County on August 25, 2014 stated the employer did not fill out the verification form and that she was having trouble getting the requested verification. I find the testimony of petitioner in this regard to be credible. The evidence in the record of this matter does not support a conclusion that petitioner has refused or failed to provide the requested verification. The County should have assisted petitioner. For this reason it was not correct to end petitioner's BC+ effective August 1, 2014.

### CONCLUSIONS OF LAW

For the reasons discussed above, it was not correct to end petitioner's BC+ effective August 1, 2014.

**NOW, THEREFORE, it is**

### ORDERED

That this matter be REMANDED to the County, that the County not discontinue petitioner's BC+ effective August 1, 2014 for failure to provide verification, and that, within 10 days of the date of this *Decision*, the County complete processing of petitioner's BC+ renewal and issue all BC+ benefits (if any) for which petitioner is otherwise eligible retroactive to August 1, 2014. The 10-day time period in this *Order* may be extended if verification is still required from petitioner -- but it may only be extend by the number of days between the time that the County requests verification in writing and the time petitioner provides the requested verification to the County.

## 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 9th day of February, 2015

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\sSean P. Maloney  
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 February 9, 2015.

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