



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

BCS/162033

PRELIMINARY RECITALS

Pursuant to a petition filed November 12, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Wood County Human Services - WI Rapids in regard to Medical Assistance, a hearing was held on December 15, 2014, at Hayward, Wisconsin.

The issue for determination is whether the petitioner is a resident of Wisconsin for BadgerCare Plus purposes.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Redact

Wood County Human Services - WI Rapids
320 West Grand Avenue
PO Box 8095
Wisconsin Rapids, WI 54495-8095

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # Redact) receives BadgerCare Plus through Sawyer County.
2. On October 27, 2014, the county agency notified the petitioner that his BadgerCare Plus would end because he was not a Wisconsin resident.

3. The petitioner has a Wisconsin driver's license. He keeps many of his belongings here. A friend gathers his mail from a post office box in Wisconsin and sends it to him in Florida.
4. The petitioner has a charter boat business in Florida that has been his main source of income since 2008. He usually lives on the boat and does not have a permanent land-based address there.
5. In the last year, the petitioner's only trip to Wisconsin lasted from late September to the middle of October 2014. During this visit he stayed short periods with a "dozen" different friends and relatives. The previous year, he was in Wisconsin for a few months and did some maintenance work.

DISCUSSION

The agency seeks to end the petitioner's medical assistance because he does not live in Wisconsin. A person must be a Wisconsin resident to receive medical assistance in this state. "Residence shall be based on physical presence ... and on the person's intent to maintain Wisconsin residence indefinitely." Wis. Admin. Code, § DHS 103.03(3)(b). Medical assistance regulations state: "'Physical presence' means living in Wisconsin." Wis. Admin. Code, § DHS 103.03(3)(a)3. They also state: "'Intent to reside' means that a person intends that Wisconsin is the person's place of residence and that the person intends to maintain the residence indefinitely." Wis. Admin. Code, § DHS 103.03(3)(a)2. There are some exceptions to this rule for those who are under 18, disabled, or institutionalized, but the petitioner does not fall into any of these categories.

The petitioner has some ties to this state: He holds a Wisconsin driver's license, he has his mail forwarded from a post office box in Sawyer county, he stores some belongings here, and he occasionally visits. But he does not live here. He has run a charter boat business in Florida for the last six years. In the last year, he has spent less than a month in Wisconsin; the previous year, he was here for a few months. Because he is not living here, he does not meet the requirement that he have a physical presence in Wisconsin. Nor does he have a residence here; if he did, he would not have stayed with what he describes as a "dozen" different people while he was here. I understand that he has no fixed location, but Wisconsin medical assistance benefits are available only to those who are present and living here. Because he is not, I must uphold the agency's decision to end his benefits.

CONCLUSIONS OF LAW

The petitioner is ineligible for Wisconsin medical assistance benefits because he not a resident of this state.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

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 2nd day of January, 2015

\sMichael D. O'Brien
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 January 2, 2015.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability