



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/162084

PRELIMINARY RECITALS

Pursuant to a petition filed November 18, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Winnebago County Department of Human Services in regard to Medical Assistance, a hearing was held on December 23, 2014, at Oshkosh, Wisconsin.

The issue for determination is whether Petitioner’s September 2014 BadgerCare+ application was properly denied for failing to produce verification.

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: Jeanie Ortiz

Winnebago County Department of Human Services
220 Washington Ave.
PO Box 2187
Oshkosh, WI 54903-2187

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Winnebago County.
2. Petitioner applied for BadgerCare+ in September 2014 seeking backdating of eligibility to August 2014. That application was denied for failure to verify.
3. Petitioner was, at all times relevant here, a student at 

4. Petitioner was sent a written request for verification dated October 7, 2014 that indicated that he needed to provide the agency with information as to any student loans, awards or grant(s) by October 20, 2014. That deadline was subsequently extended to October 30, 2014.
5. The agency did not receive the requested verification so sent Petitioner a Notice of Decision dated October 31, 2014 that informed him that his healthcare application had been denied for failing to verify.
6. Petitioner was in phone contact with the agency prior to the denial regarding the verification and asked the technical college to provide the requested information. He did provide the agency with what information he had but the student aid information was out of date. The agency endeavored to help Petitioner by contacting the technical college in but did not get a response until November 2014.
7. In December 2014 Petitioner reapplied for BadgerCare+ in December 2014 and the application was approved as the agency was able to confirm that Petitioner did not have any financial aid for the fall 2014 semester.

DISCUSSION

Certain items must be verified by an agency as part of BadgerCare+ application processing. Income is one of those mandatory items. *BadgerCare+ Eligibility Handbook (BEH)*, §9.9. With changes to BadgerCare+ financial eligibility rules that took effect in early 2014, student financial aid in excess of tuition and certain other expenses is counted as unearned income:

...work study income and any income from an internship or assistantship should be counted as earned income. Grants, scholarships, fellowships and any additional financial assistance provided by public or private organizations that exceed the cost of tuition, books and mandatory fees are counted as unearned income and should be pro-rated over the period of time they are intended to cover. Student loans are not counted as income irrespective of what the loan is used to pay for.
BEH, § 6.5.

A benefit application is denied if verification is not provided so long as adequate notice of the request for verification is provided and a person has the power to produce it:

9.11.4 Negative Actions

Deny or reduce benefits 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. You need the requested verification to determine current eligibility. Do not deny current eligibility because a member does not verify some past circumstance not affecting current eligibility.

BEH, §9.11.4.

Applying all of the above and the testimony here, it is clear that the agency properly requested the verification but it is also clear that the technical college was not particularly cooperative with Petitioner or the agency. I am concluding that Petitioner did not have the power to produce the verification. He certainly tried to do so as did the agency. Thus I am reversing the denial of his September 2014 BadgerCare+ application for failing to verify.

CONCLUSIONS OF LAW

That Petitioner's September 2014 BadgerCare+ application should not be denied for failure to verify.

THEREFORE, it is

ORDERED

That this matter is remanded to the agency with instructions to take the steps necessary to reverse the case denial for failure to verify and to complete any necessary processing of September 2014 BadgerCare+ application and establish BadgerCare+ eligibility as of August 2014 provided he is otherwise eligible. This must be done within 10 days of the date of this Decision.

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 Milwaukee,
Wisconsin, this 5th day of February, 2015

\sDavid D. Fleming
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 5, 2015.

Winnebago County Department of Human Services
Division of Health Care Access and Accountability