



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/162136

PRELIMINARY RECITALS

Pursuant to a petition filed November 11, 2014, under Wis. Stat., §49.45(5)(a), to review a decision by the DHS Cares Call Center in regard to Medical Assistance (MA), a hearing was held on February 4, 2015, by telephone. A hearing set for January 7, 2015 was rescheduled at the petitioner's request. The record was held open for one week for petitioner to provide additional information; no additional information was received.

The issue for determination is whether there was an agency denial of BadgerCare Plus (BC+) MA in late 2013 or early 2014.

PARTIES IN INTEREST:

Petitioner:



Petitioner's Representative:

Atty. Michael O'Rourke
76 Western Avenue
Fond du Lac, WI 54935

Respondent:

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

By: Alma Lezama
DHS Cares Call Center
1 W. Wilson St., Room 372
Madison, WI 53703

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Fond du Lac County. She is a single adult who does not care for minor children.
2. Petitioner applied for insurance on the health care Marketplace in late 2013. The Marketplace denied eligibility for a subsidy because petitioner's income was too low.

3. On December 23, 2013, petitioner contacted the Marketplace to report a change in income. She was told that she could not do so until January.
4. Petitioner contacted the Fond du Lac County Dept. of Social Services on December 23, 2013. An agency representative informed her that she would be ineligible for BC+ MA until a change in law took effect April 1, 2014, at which time childless adults could be eligible if income was below 100% of the federal poverty level (FPL).
5. Petitioner filed this appeal with the Marketplace on January 14, 2014. Marketplace appeals were lost until late 2014, after which the Division of Hearings and Appeals opened all such appeals including petitioner's.

DISCUSSION

In late 2013 when the federal health Marketplace started, individuals were allowed to apply for both Marketplace subsidies and Wisconsin BC+. If an applicant disagreed with the Marketplace action with regard to BC+, the person could appeal that action with the Marketplace, and the Marketplace was expected to forward the appeal to the Division of Hearings and Appeals for processing. As noted in the findings, the Marketplace lost a large batch of such appeals until they were located in late 2014. The issue in these appeals is whether the person's BC+ was determined correctly; the appeals did not cover actions concerning Marketplace subsidies.

It appears that petitioner meant to appeal the failure of the Marketplace personnel to accept her change report. The responses concerning BC+ were correct. Prior to April 1, 2014, to be eligible for MA, an adult female under age 65 had to be disabled, blind, pregnant, or the caretaker of minor children. Wis. Stat., §§49.46(1) and 49.47(4). State law changed effective April 1, 2014. As of that date all childless adults are eligible for BC+ but with the income limit reduced to 100% of the FPL. See Wis. Stat., §49.471(4)(a)4.b for the new law.

When petitioner was told in late December that she would be ineligible for BC+ until April 1, 2014, the information was correct. Apparently she did file a BC+ application in August, 2014, but did not follow up with it.

If petitioner intended to appeal the failure by the Marketplace to accept her change report, this office does not have jurisdiction over that issue.

CONCLUSIONS OF LAW

Petitioner was ineligible for BC+ in December, 2013.

THEREFORE, it is **ORDERED**

That the petition for review herein be and the same is hereby 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 16th day of February, 2015

\sBrian C. Schneider
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 16, 2015.

Brown County Human Services
Division of Health Care Access and Accountability