



**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/163140

PRELIMINARY RECITALS

Pursuant to a petition filed January 12, 2015, 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 March 19, 2015, at Ashland, Wisconsin.

The issue for determination is whether the agency can end the petitioner’s BadgerCare Plus benefits without providing notice.

There appeared at that time and place 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: Beulah Garcia

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 # [REDACTED]) is a resident of Ashland County.
2. The petitioner was an ongoing BadgerCare Plus recipient. The agency ended her benefits as of April 1, 2014. It has never notified her of its decision to do so.

3. The petitioner applied for insurance through the Affordable Care Marketplace. She was found ineligible because the program determined that she was eligible for BadgerCare Plus. She then reapplied for BadgerCare Plus, which notified her on December 12, 2014, that she was eligible during October 2014 but not eligible for November 2014.
4. The petitioner obtained Marketplace benefits as of December 2014.

DISCUSSION

The petitioner seeks BadgerCare Plus for April and November 2014. That program is Wisconsin's version of Medicaid for those who are not considered old or disabled. She had been receiving BadgerCare Plus benefits until April 2014 when the state ended those benefits, apparently because her household income exceeded the program's new limit, which fell for adults from 200% to 100% of the federal poverty level. Wis. Stat. § 49.471(4)(a). The agency's representative admitted at the hearing that it never notified her that her benefits would end. Section DHS 103.09(4) requires agencies to notify recipients in writing at least 10 days before ending medical assistance. The notice "shall clearly state what action the agency intends to take and the specific regulation supporting that action, and shall explain the right to appeal the proposed action and the circumstances under which MA is continued if a fair hearing is requested." Because the agency never did this, it must reinstate her benefits retroactive to April 2014. The agency did not notify her that she was ineligible for BadgerCare Plus until December 12, 2014, when it informed her that she was eligible for October 2014 and ineligible for November 2014. Because the agency did not notify her until December that her benefits had ended, it cannot end her benefits before then. I will order the agency to reinstate her in the program from April through November 2014; I am not ordering that it reinstate her for December because she had obtained coverage under the federal marketplace by then.

CONCLUSIONS OF LAW

The county agency incorrectly ended the petitioner's benefits from April through November 2014 because it did not notify her of its decision to do so.

THEREFORE, it is

ORDERED

That this matter is remanded to the county agency with instructions that within 10 days of the date of this decision it reinstate the petitioner's family into the BadgerCare Plus program retroactive to April 1, 2014, and that it continue that eligibility until December 1, 2014.

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 23rd day of March, 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 March 23, 2015.

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