



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact
Redact
Redact

DECISION

CTS/163631

PRELIMINARY RECITALS

Pursuant to a petition filed January 28, 2015, under Wis. Stat. § 227.42, to review a decision by the Polk County Department of Social Services in regard to Medical Assistance, a hearing was held on March 19, 2015, at Balsam Lake, Wisconsin.

The issue for determination is whether the county agency correctly ended a caretaker supplement payment for the petitioner because she failed to verify that her daughter was homeschooled.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact
Redact
Redact

Respondent:

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

By: Redact

Polk County Department of Social Services
100 Polk County Plaza, Suite 50
Balsam Lake, WI 54810

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # Redact) is a resident of Polk County.
2. The petitioner lives with her daughter who turned 18 on September 5, 2014.
3. The county agency denied the petitioner's application for a Caretaker Supplement because she did not verify that her daughter was being home-schooled.

4. The county agency did not submit a copy of it request for verification.
5. The petitioner made a reasonable attempt to obtain the requested information but was unable to do so.

DISCUSSION

Wisconsin implemented the Caretaker Supplement program to help SSI recipients with the financial burden of raising their children after Wisconsin Works (W2) ended AFDC payments in 1998. Wis. Stat. § 49.775. Persons on SSI could not participate in W2 because it is a work program and those on SSI, by definition, cannot work. The Caretaker Supplement program pays \$250 per month to a “custodial parent” for the support of one “dependent” child and \$150 per month for each additional “dependent” child of custodial parents who receive SSI. Wis. Stat. § 49.775(2) and (4)(a). Eligibility depends upon the child being “under the age of 18 or, if the person is a full-time student at a secondary school or a vocational or technical equivalent and is reasonably expected to complete the program before attaining the age of 19, is under the age of 19.” The department seeks to end the petitioner’s supplement because her daughter is 18 years old and has not adequately verified that she continues to be homeschooled. Neither party challenges that homeschooling qualifies as being a full-time student in secondary school.

The Caretaker statute does not specifically address verification, but its policy manual indicates that workers must rely upon medical assistance policies. *SSI Caretaker Supplement (CTS) Handbook*, § 2.1. Medicaid requires recipients to verify relevant information within 30 days of their application date or within 10 days of when the information is requested, whichever is later. Wis. Admin. Code, § DHS 102.03(1); *Medicaid Eligibility Handbook*, § 20.7.1.1. But agencies must allow flexibility and provide assistance to those who have trouble gathering the requested verification: “If the applicant or recipient is not able to produce verifications, or requires assistance to do so, the agency may not deny assistance but shall proceed immediately to verify the data elements.” Wis. Admin. Code, § DHS 102.03(1). The *Medicaid Eligibility Handbook*, §§ 20.8.1. and 20.8.3. tells agency workers how to carry out this regulation:

Begin or continue benefits when:

1. The member provides requested verification within the specified time limits and is otherwise eligible.
2. Requested verification is mandatory, but the member does not have the power to produce the verification and s/he is otherwise eligible.

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

The petitioner attempted to get the requested information from both the Department of Public Instruction and a homeschooling clearing house, but could not. She explained this to her worker. The worker did not know any other way to get this information or what else the petitioner could have done to obtain it. Still, the worker said it was up to the petitioner to figure out a way to find it. The worker’s position ignores her department’s own policies. The agency has no authority to deny eligibility for lack of verification where the recipient has shown that she has been unable to obtain the verification after making reasonable attempts to do so.

Moreover, the agency has fallen short of its burden of proof because it never provided a copy of the request for verification to the Division of Hearings and Appeals. Without this, even if the petitioner had not shown that she made reasonable efforts to obtain verification, there is no way to determine exactly what verification was requested.

Because the agency has not established what it asked for or that the petitioner was capable of producing the verification, the petitioner remains eligible for the program. I note that I cannot tell exactly when the agency ended the petitioner's benefits because it never submitted a copy of its notice of decision. Therefore, I will instruct the agency to reinstate her into the program retroactive to whenever the benefits ended.

CONCLUSIONS OF LAW

The county agency incorrectly ended the petitioner's Caretaker Supplement benefit because she was unable to produce the requested verification.

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 resume the petitioner's Caretaker Supplement benefits retroactive to the date those benefits ended.

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 30th 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 30, 2015.

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