



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/164054

PRELIMINARY RECITALS

Pursuant to a petition filed February 19, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Washington County Department of Social Services in regard to Medical Assistance, a hearing was held on March 17, 2015, at West Bend, Wisconsin.

The issue for determination is whether the agency properly denied MA benefits for the Petitioner.

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: Julie Williamson

Washington County Department of Social Services
333 E. Washington Street
Suite 3100
West Bend, WI 53095

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Washington County.
2. On December 23, 2014, the Petitioner submitted a renewal application via online ACCESS for BC+ benefits.

3. On January 13, 2015, the agency issued a Notice of Proof Needed to the Petitioner requesting verification of a life insurance policy and checking account. The due date for the information was January 22, 2015.
4. On January 27, 2015, the agency issued a Notice of Decision to the Petitioner informing her that her benefits would end effective February 1, 2015.
5. Petitioner has Social Security income of \$1,201.60/month. She has rent expense of \$352/month. Petitioner's household size is one.
6. On February 19, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

BadgerCare Plus is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. The program's nonfinancial eligibility standards were broadened effective April 1, 2014, to include adults who do not have minor children in their home. Wis. Stat. § 49.45(23); BadgerCare Plus Eligibility Handbook (BCPEH), § 2.1, at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> (viewed in March 2015). The petitioner meets the nonfinancial eligibility tests for the program.

The petitioner must also pass an income test. An eligible applicant cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); BCPEH, § 16.1. The 100% FPL amount is \$972.50 monthly for a household of one. Id. § 50.1.

If the agency requests verification of information that is needed to determine eligibility and the Petitioner does not produce that information by the due date, the agency may deny or reduce benefits. MA Handbook, § 20.8.3.

In this case, the Petitioner does not dispute that she did not produce the requested verification by the due date. She testified that she did not receive the notice of January 13, 2015. I note that the notice was mailed to the proper address for the Petitioner and Petitioner indicated no problems with receiving mail at that address.

The Petitioner does not dispute the agency calculation of her income.

However, there is a problem with the agency's notices in this case. The verification notice only provided the Petitioner with nine days to produce the requested information, instead of 10 days as required. See BCPEH, § 9.4. In addition, the January 27, 2015 notice advised the Petitioner that her benefits would end on February 1, 2015. The agency is required to provide at least 10 days' notice before the effective date of an adverse action. Income Maintenance Manual, § 3.2.3. Therefore the agency failed to provide proper notices to the Petitioner prior to terminating her benefits.

CONCLUSIONS OF LAW

The agency failed to provide proper notices to the Petitioner prior to terminating her benefits.

THEREFORE, it is

ORDERED

That this matter is remanded to the agency to take all administrative steps necessary to continue the Petitioner's BC+ benefits retroactive to February 1, 2015, to re-process her renewal application, make a new determination of her eligibility and issue proper notices to the Petitioner regarding her eligibility status. These actions shall be completed 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 4th day of May, 2015

\sDebra Bursinger
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 May 4, 2015.

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