



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/165815

PRELIMINARY RECITALS

Pursuant to a petition filed May 01, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the La Crosse County Department of Human Services in regard to Medical Assistance, a telephonic hearing was held on May 21, 2015, at La Crosse, Wisconsin. At the request of the parties, the record was held open for the petitioner to submit her bank information to the agency, and then for the agency and then petitioner to submit written closing arguments to DHA by June 11, 2015. There is no evidence in the hearing record that petitioner submitted any bank records to the county agency. The agency submitted a closing argument to DHA which was received on June 8, 2015. The petitioner failed to submit any closing argument to DHA even by June 15, 2015. The agency's closing argument is received into the hearing record.

The issue for determination is whether the county agency correctly discontinued the BadgerCare Plus benefits for petitioner's daughter effective April 1, 2015, due to her failure to timely and accurately verify her self-employment income and to report her accurate household composition (ex-husband, [redacted]) in her household.

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: Tom Miller, ES Supervisor
La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of La Crosse County who resides with her 7 year old daughter. The petitioner receives SSI, and thus receives Medicaid benefits.
2. The petitioner's ex-husband is [REDACTED]. He is not the father of her daughter.
3. Petitioner received BadgerCare (BC) Plus benefits for her daughter for a BC household of two.
4. Petitioner participated in her reviews for FoodShare and Medical Assistance as a single parent with one child, but did not report that her ex-husband, [REDACTED] was residing with her in her home during the period of March 1, 2014 to February 28, 2015.
5. During her application interview process, her six month review forms (SMRFs) and during her annual reviews, petitioner maintained that she lived with only her daughter. Petitioner inaccurately claimed she only had the following income: SSI of about \$657 per month and child support of about \$248 per month.
6. On November 13, 2014, the agency received a tip indicating that petitioner was not reporting her self-employment as a [REDACTED], known as "[REDACTED]." That tip also claimed that petitioner was not reporting other adults in her household. The county agency began investigating whether [REDACTED] resided with petitioner and her child, and that his income had not been timely reported to the county agency.
7. The investigator from Central States Investigators, Mark Stange, after consulting with petitioner's neighbors, reviewing documents, and interviewing petitioner determined that petitioner failed to report that [REDACTED] was residing in her household and his income, and failed to report her self-employment income as a [REDACTED].
8. On or about February 15, 2015, the agency sent a written verification request to the petitioner requesting proof of [REDACTED]'s employment and income for the past year and a copy of her mortgage application (petitioner had purchased a home at [REDACTED] during November, 2014 with [REDACTED] as a co-signor).
9. The agency sent a February 17, 2015 Notice of Decision to the petitioner stating that her daughter's BadgerCare (BC) benefits would discontinue April 1, 2015, due to petitioner's failure to provide requested and required verification of her household income and accurate household composition.
10. During the May 21, 2015 hearing, neither petitioner nor [REDACTED] were able to provide any reliable evidence to refute that he was residing in petitioner's home during the relevant BC period prior to the BC discontinuance on April 1, 2015.
11. The petitioner worked as a [REDACTED] earning about \$300- \$350 for a four hour job for which she is generally paid in cash, but failed to report any of that income to the agency in determining her BC eligibility or benefits.
12. During the first half of 2015, [REDACTED] worked as a supervisor for [REDACTED], and earned about \$46,000 per year
13. Because the petitioner failed or refused to provide her reliable self-employment income to the agency, the agency correctly discontinued her BC benefits effective April 1, 2015, because her total household income was not verified by petitioner.
14. The agency submitted a persuasive closing argument to DHA which was received on June 8, 2015. The petitioner failed to submit any responsive closing argument to DHA even by June 15, 2015. The agency's closing argument is received into the hearing record. See above Preliminary Recitals.

DISCUSSION

A person is eligible for BadgerCare or Medical Assistance (MA) if s/he meets all non-financial and financial requirements. Medicaid Eligibility Handbook, § 1.1.1. (This is available online at <http://www.emhandbooks.wi.gov/meh/>).

An applicant for MA or a representative acting on the applicant's behalf is responsible for providing the agency with full, correct, and truthful information. Wis. Adm. Code §DHS 102.01(6). Income and assets must be verified. §DHS 102.03(3) (a) and (h). **MA shall be denied when the applicant is able to produce the required verification but fails to do so. §DHS 102.03(1).** (Emphasis added). If the applicant is unable to produce the verification, the agency must assist her/him. Id. An application must be processed within 30 days of its filing date. §DHS 102.04(1); §DHS 104.01(10). If there is a delay in securing information, the agency must notify the applicant of the delay and the reason for the delay. §DHS 102.04(1).

The Department interprets those requirements in its Income Maintenance Manual, Chapter I, Part C. Asset and income verification is mandatory. IMM, I-C-9.3.0 & 9.1.0. The county shall deny benefits when all of the following are true: (1) the applicant has been given adequate notice of the verification required, (2) the verification is necessary to determine current eligibility, (3) the applicant has the power to produce the verification, (4) the time allowed to produce the verification has passed. IMM, I-C-3.3.0. The agency generally should allow **10 days for verification**, but it cannot deny an application until at least 31 days have passed since it was filed. IMM, I-C-5.1.0.

During the May 21, 2015 hearing, petitioner and [REDACTED] [REDACTED] did appear but their testimony was unconvincing to refute that [REDACTED] resided with the petitioner in her home during the period prior to the April 1, 2015 BC discontinuance period. The petitioner testified in vague terms that [REDACTED] [REDACTED] resided with his parents during some uncertain periods during the overpayment period. However, [REDACTED] admitted that he did not pay any rent at any other residence. The petitioner's testimony was self-serving, and not credible. The petitioner was unable to provide any reliable evidence to refute the county's BC discontinuance case. Neither petitioner nor [REDACTED] were able to provide any evidence to refute the documents which indicated that [REDACTED] resided with petitioner during the period in question. The petitioner was also unable to refute that she failed to timely report her self-employment [REDACTED] income to the agency.

Overall, the petitioner presented a weak, unpersuasive case. During the May 21, 2015 hearing, petitioner was unable to present any non-hearsay reliable evidence to refute or undermine the county's testimony or evidence that [REDACTED] resided with her, and she failed to report or verify his income or her self-employment income after receiving the February 15, 2015 written verification request from the agency. Even as of the hearing date, petitioner failed to reliably provide her [REDACTED] income so that the agency was unable to accurately determine the total household income. The petitioner did not establish with any reliable evidence any good cause for failing to timely provide her household's financial verification to the county agency. The petitioner was unable to refute the county agency's case regarding the discontinuation of her daughter's MA. Accordingly, for the above reasons, I conclude that the county agency correctly discontinued the petitioner's daughter's BC Plus benefits effective April 1, 2015, due to petitioner's failure to provide required verification to the county agency.

CONCLUSIONS OF LAW

The county agency correctly discontinued the BadgerCare Plus benefits for petitioner's daughter effective April 1, 2015, due to petitioner's failure to accurately verify her self-employment income and to report her accurate household composition (ex-husband, [REDACTED] [REDACTED]) in her household.

THEREFORE, it is

ORDERED

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 21st day of July, 2015

\sGary M. Wolkstein
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 July 21, 2015.

La Crosse County Department of Human Services
Division of Health Care Access and Accountability