



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/168043

PRELIMINARY RECITALS

Pursuant to a petition filed August 15, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Winnebago County Department of Human Services in regard to Medical Assistance, a hearing was held on September 17, 2015, at Neenah, Wisconsin.

The issues for determination are whether the agency correctly denied Petitioner’s request for backdated BadgerCare+ eligibility for failing to verify income and whether it discontinued his BadgerCare+ in the correct month because of income in excess of BadgerCare+ limits.

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: Jeanie Ortiz

Winnebago County Department of Human Services
220 Washington Ave.
PO Box 2187
Oshkosh, WI 54903-2187

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Winnebago County.
2. Petitioner applied for BadgerCare+ Medicaid in June 2015. He was not working in June. He sought backdated benefits to April 2015.
3. The agency sent Petitioner a request for verification dated July 3, 2015. It sought paystubs back to April 2015 as there was some quarterly wage information in state wage records.

4. The agency did not get any income information from Petitioner for April or May 2015 but did learn that Petitioner was off of work for medical reason for June and July 2015.
5. Petitioner was found eligible for BadgerCare+ for June and July 2015.
6. Petitioner did return to work on or about July 20, 2015 with the first paycheck after that to be on August 7, 2015. Petitioner's income for August 2015 was \$1384.54.
7. Petitioner is a BadgerCare+ group of 1.
8. 100% of the Federal Poverty Level for a group of 1 is \$980.83.

DISCUSSION

Certain items must be verified by an agency as part of BadgerCare+ application processing. Income is one of those mandatory items. *BadgerCare+ Eligibility Handbook (BEH)*, §9.9.

A benefit application is denied if verification is not provided so long as adequate notice of the request for verification is provided and a person has the power to produce it:

9.11.4 Negative Actions

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.
BEH, §9.11.4.

Applying all of the above, I am concluding that the agency correctly denied Petitioner's request for benefits for April and May 2015 for failing to verify.

As for August 2015, I am reversing that case closure. BadgerCare+ is Wisconsin's Medicaid program for those who are not elderly or disabled. Effective April 1, 2014, Wisconsin state law changed and lowered the amount of adjusted gross income a household can have and still be eligible for benefits to 100% of the Federal Poverty Level for adults and 300% for children. *Wis. Stat. § 49.471(4)(a)*. This change was to be effective January 1, 2014 but was held off until April 1 to assure coordination with other changes in healthcare options; especially the Affordable Care Act. 100% of the Federal Poverty Level for a 1 person household was \$980.83 per month as of February 1, 2015. *BadgerCare+ Eligibility Handbook (BEH)*, §50.1. Change reporting for income begins at 100% of the Federal Poverty Level. *BEH*, §27.3.

Petitioner's income did exceed the reporting requirements in August 2015 but he had until September 10, 2015 to report that. *See BEH*, § 27.3. Thus the closure should have been for October 2015. Benefits for August and September 2015 must be restored.

CONCLUSIONS OF LAW

1. That the agency correctly denied Petitioner's request for backdated BadgerCare+ coverage for April and May 2015 as he did not verify income as requested.
2. That the agency incorrectly discontinued Petitioner's BadgerCare+ eligibility for August and September 2015 as he did not have to report his August income until September 2015 which would have closed the case for October 2015.

THEREFORE, it is

ORDERED

That this appeal is remanded to the agency with instructions to restore Petitioner's BadgerCare+ eligibility for the months of August and September 2015. This must be done within 10 days of the date of this Decision.

In all other respects, this appeal is 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 Milwaukee,
Wisconsin, this 30th day of October, 2015

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 30, 2015.

Winnebago County Department of Human Services
Division of Health Care Access and Accountability