



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/172101

PRELIMINARY RECITALS

Pursuant to a petition filed February 18, 2016, under Wis. Stat., §49.45(5)(a), to review a decision by the Dane County Dept. of Human Services to deny Medical Assistance (MA), a hearing was held on March 11, 2016, at Madison, Wisconsin.

The issue for determination is whether the agency correctly denied MA following a December, 2015 re-application.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Petitioner's Representative:



Respondent:

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

By: [Redacted]
Dane County Dept. of Human Services
1819 Aberg Avenue
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Dane County.
2. Petitioner received BadgerCare Plus (BC+) MA until May 1, 2015. The benefits were closed after petitioner allegedly failed to verify information about the father of two of her children. Although petitioner's appeal for BC+ was untimely, a lengthy appeal followed concerning child care and

- FoodShare, with the primary issue being whether the father lived with petitioner. By a decision dated November 19, 2015 the Division of Hearings and Appeals upheld the agency actions, finding that the father lived with petitioner. See Exhibit 2.
3. On December 10, 2015 petitioner submitted a copy of a lease dated September 15, 2015 with her alone listed as the lessee. Exhibit 3. The lease included language, however, that the apartment could be occupied by two adults and three children. Petitioner also provided a utility bill that was in her name. A worker noted that petitioner needed to reapply and that the lease did not state who was living at the residence.
 4. On December 14, 2015, petitioner reapplied for BC+, child care assistance, and FoodShare, again asserting that the father did not live with her.
 5. Petitioner completed an interview on December 18, 2015. The worker questioned the household composition, noting that the child support agency listed the father as living at the same address. See Case Comments, Exhibit 9, page 3.
 6. On December 21, 2015 the county sent petitioner a verification request. One item on the list was "People living in your home," and suggested examples of acceptable verification were a lease, a statement from the landlord, or an affidavit. Also requested was verification of petitioner's earned income, specifically pay stubs from the last 30 days or an Employer Verification Form. See Exhibit 8, pages 1 and 2. The due date for child care was December 30, 2015 and for other programs was January 13, 2016.
 7. On December 21, 2015 petitioner provided three pay stubs. One was dated in September and the other two were undated. See Exhibit 9, page 2.
 8. On January 5, 2016 the county sent petitioner a notice denying child care because she did not verify requested information. Exhibit 8, page 17.
 9. Another verification notice was sent on January 5, 2016, but only for BC+ and FoodShare. Exhibit 8, page 7. It again requested verification of people living in the home and of petitioner's earned income. The due date remained January 13.
 10. Petitioner provided the verification of her earned income on January 12, 2016, but she provided nothing else regarding the father's whereabouts.
 11. By a notice dated January 14, 2015 the county denied BC+ and FoodShare for failing to provide requested verification. Exhibit 8, page 21.
 12. On January 19 petitioner spoke with a county worker. The worker explained that the September 1, 2015 lease was insufficient to show where the father was living. Petitioner needed to show where he was living if not with her. On January 26 petitioner presented a copy of an [REDACTED] driver's license in the father's name that was issued that day. The county refused to accept the license on its own based upon the history of the case.

DISCUSSION

Under BC+ anyone in the home who meets the criteria of being in the BC Plus test group is always included in the group whether or not he or she requested BC Plus. BC Plus Handbook, Appendix 2.2. A co-parent is always part of the BC Plus group under this policy, even if there are other children in the household who are not his. Handbook, App. 2.2.1. This policy mirrors the Wisconsin Administrative Code definition of "fiscal test group" found at Wis. Admin. Code, §DHS 101.03(65).

If the father lives with petitioner his employment and income information would be necessary to determine child care eligibility. Obviously, given the litigation involving his whereabouts prior to the December 14 reapplication petitioner knew that his whereabouts continued to be an issue with the county.

During the hearing petitioner provided a number of other documents verifying that the father now resides primarily with his mother in [REDACTED], although he still spends time in [REDACTED]. Mr. [REDACTED] acknowledged that he could accept this information, but stated that petitioner should reapply because the December 14 application was closed more than 30 days ago. Petitioner argued that the county should have accepted petitioner's attempts to verify his residence, and at the very least accepted the [REDACTED] driver's license as verification that he lived outside petitioner's home.

I agree with the county that the copy of the lease was not sufficient. The lease did not say who was living in petitioner's residence, and petitioner did not provide any proof that the father lived elsewhere until she provided the [REDACTED] license. The problem is that even if I were to accept the [REDACTED] license as adequate verification, it was not presented until after the application was denied.

An MA recipient is required to verify information that can affect eligibility. Wis. Admin. Code, §DHS 102.03. If the household fails to verify required information by the time limit, the agency may deny the benefits. Wis. Admin. Code, §DHS 102.03(1). The agency should assist the applicant if she requests assistance. BC+ Handbook, App. 9.8. If sources of verification are unavailable, the agency should use the best information available. Id.

The Handbook, App. 9.11.4, provides as follows:

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.

In this case petitioner did not provide adequate verification of the father's whereabouts until after the application was denied. She did not request assistance during the 30-day application processing period. It was not until January 19 that she inquired about what the county needed (i.e. requested assistance) and the [REDACTED] license was not provided until January 26.

Petitioner testified that she was overwhelmed by notices and missed the importance of the verification requests. In particular she pointed to the large number of overpayment notices she received. The overpayment notices were sent, however, in November, 2015, well before petitioner reapplied for benefits. As far as I can tell the only notices sent after the December 14 application were the verification requests and denial notices described in the findings.

Although petitioner now has provided additional verification of the father's residence, I must conclude that the January, 2016 denial of BC+ was correct. The county correctly denied BC+ on January 14 because petitioner did not verify by the January 13 due date. Once the 30th day passed, petitioner had to reapply to establish a new start date. I note that in a January 20, 2016 e-mail Mr. [REDACTED] told petitioner

that she would have to “re-sign your application” because the 30-day processing period had passed. Exhibit 4, page 2. There is no basis for me to order the December 14, 2015 BC+ application to be reopened.

CONCLUSIONS OF LAW

The county correctly denied petitioner’s December 14, 2015 BC+ application because she did not verify her household members within 30 day of the application.

THEREFORE, it is ORDERED

That the petition for review 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 15th day of March, 2016

\sBrian C. Schneider
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 March 15, 2016.

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

Attorney [REDACTED]

Attorney [REDACTED]