



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: BCS - 212166

PRELIMINARY RECITALS

Pursuant to a petition filed on February 15, 2024, under Wis. Stat. § 49.45(5)(a), to review a decision by the Rock County Human Services regarding Medical Assistance (MA), a hearing was held on April 10, 2024, by telephone. The hearing was first scheduled for March 14, 2023 but rescheduled at the request of Petitioner who was unavailable on that date. The hearing was held open to allow Petitioner to submit documentation relevant to the question of her household composition. Those documents have been forwarded to the agency.

The issue for determination is whether Petitioner's BadgerCare Plus case was properly closed effective January 1, 2024.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703
By: Adam Voss
Rock County Human Services
1900 Center Avenue
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Teresa A. Perez
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County who previously received BadgerCare Plus benefits.
2. On November 2, 2023, the income maintenance agency (“the agency”) received an automated alert from the county Child Support Agency (“CSA”) that indicated [REDACTED] had reported the same address as Petitioner to the CSA.
3. On November 3, 2023, the agency sent Petitioner a request for verification that she understood to be a request to verify where she resided but that the agency had intended to be a request to verify where both she and [REDACTED] resided. The request from the agency stated that Petitioner should send proof of “people living in [her] home” but did not reference [REDACTED]. The agency advised Petitioner that her deadline to submit verification was November 22, 2024.
4. On November 22, 2023, in a timely response to the agency’s request, Petitioner sent a copy of a letter addressed to both Petitioner and [REDACTED] at the address of [REDACTED] in Janesville, Wisconsin with the intent of showing her address. The letter was from the company that services their mortgage. She subsequently sent a copy of an [REDACTED] bill addressed to both Petitioner and [REDACTED].
5. The agency terminated Petitioner’s FS and BCP as of January 1, 2024 based on a finding that she had failed to provide the requested verification.
6. Petitioner is married to [REDACTED].
7. On February 15, 2024, Petitioner filed a hearing request regarding the closure of her FS and BCP benefits.
8. After the agency was advised that Petitioner had filed a hearing request, it reviewed her case file and attempted unsuccessfully to contact her to try to clarify [REDACTED] place of residence.

DISCUSSION

The issue here is whether the agency properly terminated Petitioner’s BadgerCare Plus and FoodShare effective March 1, 2024. For the reasons set forth below, I find that the termination was not proper.

FAILURE TO TIMELY VERIFY

First, as noted in the Findings of Fact, the agency sent Petitioner a verification request in November 2023 because it wanted evidence as to whether she was or was not residing with [REDACTED] but the wording of the verification request did not say that. Instead, the verification request stated that she must provide verification of her household composition and then listed only her name. The agency is required to provide individuals adequate written notice of verification requests. See *BadgerCare Plus Handbook* §9.11.4. The agency did not establish that it did so in this case.

Second, Petitioner responded to the agency’s verification request by the deadline to show where she lived which is what the agency requested. Despite that, the agency closed both her BCP and FS cases for failure to respond to an agency request. If the agency believed that what Petitioner submitted was confusing or incomplete, the agency could have contacted, or attempted to contact her, to ask for clarification or

additional documentation and extended her deadline accordingly. The agency did not make any such effort until after the agency had closed her FS and BCP case.

I also note that it is not clear whether [REDACTED] inclusion in Petitioner's household would have caused the household to lose eligibility for BCP or RS because there is no evidence in the record regarding his income, her income, or their tax filing statuses.

HOUSEHOLD COMPOSITION

Although I find that the agency's basis for termination of Petitioner's FS and BCP was not proper for the reasons discussed above, I make no findings regarding Petitioner's household composition. And, this decision does not prohibit the agency from requesting additional verification from Petitioner to establish that she and [REDACTED] reside separately.

Petitioner testified that she and [REDACTED] are separated and that they have been living apart for a number of years. She explained that the letter from the mortgage servicer and the utility company that she provided to the agency in response to the verification request were addressed to both her and [REDACTED] because he had agreed to continue payment for part or all of the mortgage, utilities, and other bills as a means of providing for the children they share. She also testified that [REDACTED] physically attacked her on March 14, 2024 resulting in criminal charges against him and an order that he have no contact with her.

Following the hearing, Petitioner submitted the following two documents to corroborate aspects of her testimony: (1) the first page of a letter that was sent to her from the [REDACTED] as a result of the March 14, 2024 incident, and (2) the first page of a lease that identifies [REDACTED] as the sole tenant of an apartment in [REDACTED] with a lease term of January 29, 2023 to January 28, 2024.

The letter from the Victim Assistance Program does not speak directly to [REDACTED] residence. And, because only one page of the lease was submitted, it did not show [REDACTED] or the landlord's signatures. This is not to suggest that I found the documents provided or Petitioner's testimony to lack credibility. However, the evidence was insufficient—particularly in light of the letters from the utility company and mortgage servicer which were addressed to both of them at a single location—to demonstrate that Petitioner and [REDACTED] live separately.

CONCLUSIONS OF LAW

- (1) Because the agency did not issue an adequate verification request to Petitioner and because Petitioner timely replied to the confusing verification request, the agency's termination of Petitioner's BCP case was not proper.
- (2) There is insufficient evidence in the hearing record to establish where [REDACTED] resides or that he resides separately from Petitioner.

THEREFORE, it is

ORDERED

That the matter is remanded to the agency to retroactively instate Petitioner's BCP effective January 1, 2024 and to send her written notice that it has done so. In all other respects, the matter is dismissed. The agency must comply with this order within ten 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, 4822 Madison Yards Way, 5th Floor North, 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

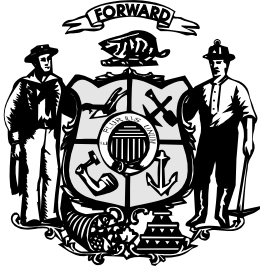
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 10th day of May, 2024



\s _____
Teresa A. Perez
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 10, 2024.

Rock Cty Human Services
Division of Health Care Access and Accountability