



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: BCS - 207323

PRELIMINARY RECITALS

Pursuant to a petition filed on January 3, 2023, under Wis. Stat. § 49.45(5)(a), to review a decision by the Dane County Department of Human Services (“the agency”) regarding Medical Assistance (MA), a hearing was held on February 27, 2023, by teleconference initiated from Madison, Wisconsin. The hearing was first scheduled for February 23, 2023. The agency was not prepared to proceed at that time and thus requested that the hearing be postponed. The undersigned administrative law judge (ALJ) granted that request and with the agreement of both parties, rescheduled the hearing to occur on February 27, 2023. Petitioner waived his right to a ten day advance hearing notice. Because the hearing was not postponed at the request of Petitioner, no “delay days” were added to the timeframe for issuing the decision that is set forth in the federal regulations governing Medical Assistance appeals.

The issue for determination is whether Petitioner is eligible to have his Medical Assistance eligibility backdated to August 1, 2022 which was three months prior to the month of his initial application.

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: [REDACTED]
Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:
Teresa A. Perez

Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County.
2. The agency received a health care application for Petitioner via the Federally Facilitated Marketplace (FFM) on November 19, 2022. In that application, Petitioner requested that his eligibility be backdated three months prior to the month of his application (i.e., as of August 1, 2022).
3. During the November 2019 application process, Petitioner reported to the agency that he had self-employment income and provided his 2021 1040 income tax return form and related schedules including Schedule C as verification.
4. The agency determined, based on the tax documents Petitioner provided, that his monthly countable income was \$1,390, that his annual countable income was \$16,680, and that his income exceeded the BadgerCare Plus income limit for a single person.
5. The BCP monthly countable income limit for a single person household in 2022 was \$1,132.50 and the annual income limit was \$13,950.
6. By notice dated December 20, 2022, the agency informed Petitioner that he was ineligible for BadgerCare Plus as of August 1, 2022 because his income exceeded the program limit.
7. On December 21, 2022, Petitioner contacted the agency to better understand the eligibility determination. During that conversation, the agency worker reviewed Petitioner's previously submitted tax documents and noted that Petitioner had reported no business expenses.
8. In late December 2022 or early January 2023, Petitioner contacted his tax preparer to find out why no business expenses had been listed on his 2021 tax forms. Following that conversation, his tax preparer amended and resubmitted Petitioner's tax return.
9. Petitioner filed an appeal on January 3, 2023.
10. On January 30, 2023, Petitioner provided the agency with a copy of the amended 2021 1040 federal tax return filed by his tax preparer.
11. On February 17, 2023, Petitioner contacted the agency to find out the status of his case. The agency worker with whom he spoke reviewed his case and advised him that he needed to submit the amended Schedule C. Petitioner did so on the same date.
12. On or after February 17, 2023, the agency reviewed Petitioner's amended 2021 Schedule C, determined that his countable income was under the program income limit, and found him to be eligible for BCP as of November 2, 2022.

DISCUSSION

BadgerCare Plus (BCP) eligibility for non-pregnant, non-disabled parents as well as childless adults with income under 100% of the Federal Poverty Level may be backdated up to the first of the month three calendar months prior to the month of application. To receive backdated eligibility, an applicant must

have met all other program eligibility criteria in the month or months for which they are seeking coverage. See *BadgerCare Plus Eligibility Handbook 25.8.1*. An individual can request backdated eligibility at any time unless the individual is already enrolled and backdating eligibility would result in a deductible for the backdated period. *Id.*

Here, the agency contended that Petitioner reapplied for BCP in February 2022 when he provided his amended Schedule C and that the agency can therefore begin his eligibility no earlier than November 1, 2022. The agency's handling of Petitioner's February 2022 application was consistent with agency policy set forth in the *BadgerCare Plus Handbook §25.9.2* which states: "If the person applied for health care and the IM agency initially denied the health care application more than 30 days ago . . . , the person must sign and submit a new application in order re-request health care."

Petitioner filed an appeal of the agency's December 20, 2022 denial of his initial application. That denial was premised on the conclusion that his countable income exceeded the BCP income limit as of August 1, 2022. Because Petitioner has since provided an amended tax return and because the agency concluded, based on that tax return, that his 2022 countable income was under the BCP income limit, there is no longer any dispute that Petitioner was income eligible for BCP as of August 2022.

For the above reasons, I find that Petitioner has established by a preponderance of the evidence that he was eligible for BCP for the months of August 2022 through October 2022.

CONCLUSIONS OF LAW

- (1) Petitioner's countable income was under the BCP income limit in August, September, and October 2022.
- (2) Petitioner is entitled to backdated BadgerCare Plus benefits for the months of August, September, and October 2022.

THEREFORE, it is

ORDERED

That the matter is remanded to the agency with the instructions to open Petitioner's BCP eligibility effective August 1, 2022 and send Petitioner written confirmation that it has done so. The agency shall comply with these instructions within ten days of the date of this decision.

Note to Petitioner: After receiving the agency's written confirmation that your BCP has been backdated to August 1, 2022, you may contact medical providers who provided you services from August through October 2022 and ask that they bill BadgerCare Plus for those services.

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

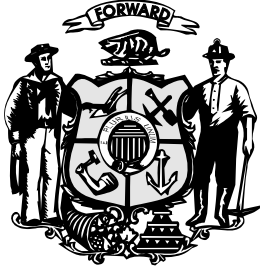
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 15th day of March, 2023



\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 March 15, 2023.

Dane Cty. Dept. of Human Services
Division of Health Care Access and Accountability

[REDACTED]

[REDACTED]