



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/169717

PRELIMINARY RECITALS

Pursuant to a petition filed October 29, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane County Department of Human Services [“County”] in regard to Medical Assistance [“MA”], a Hearing was held via telephone on January 14, 2016. At petitioner’s request a Hearing scheduled for December 15, 2015 was rescheduled.

The issue for determination is whether the following Claim can be established against petitioner for an MA overpayment: Claim Number [REDACTED]; October 1, 2014 to April 30, 2015; \$1,047.82.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

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

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County, Wisconsin.
2. The County established the following Claim against petitioner for an overpayment of MA: Claim Number [REDACTED]; October 1, 2014 to April 30, 2015; \$1,047.82. Exhibit #6A/
3. Petitioner's household had earned income during the time period in question that was not reported; specifically, petitioner started employment at [REDACTED] on July 28, 2014 but did not report this income to the County. Exhibit #2A.
4. Petitioner was sent a letter notice dated July 10, 2014 entitled *About Your Benefits*; that notice informed petitioner that she was enrolled in MA (Family Planning Services) effective August 1, 2014 and also informed her that she must report if her income goes over \$2,116.00; her employment at [REDACTED] put her over that amount and she did not report. Exhibits #1, #3 & #5.
5. Petitioner was sent a letter notice dated October 20, 2014 entitled *About Your Benefits*; that notice informed petitioner that she was enrolled in MA (BadgerCare Plus) effective October 1, 2014 and also informed her that she must report if her income goes over \$1,310.83; her employment at [REDACTED] put her over that amount and she did not report. Exhibits #1, #3 & #5.
6. The MA overpayments in *Findings of Fact #2*, above, resulted from the fact that the entire income of petitioner's household was not budgeted when calculating MA eligibility during the time periods in question due to income not being reported. Exhibits #1, #3 & #6A.

DISCUSSION

An overpayment of MA benefits may be recovered only in the following 3 circumstances:

- A. A misstatement or omission of fact by a person supplying information in an application for benefits;
- B. The failure of an MA or BadgerCare recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits; or,
- C. The failure of an MA or BadgerCare recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.

Wis. Stat. § 49.497(1)(a) (2013-14); See also, *Medicaid Eligibility Handbook* ["MEH"] 22.2.1; BEM/DWS Operations Memo, No: 05-39, Date: 09/29/2005; and, BEM/DWS Operations Memo, No: 06-10, Date: 02/09/2006.

In this case petitioner failed to report income. Petitioner does not deny this. This caused the MA overpayment listed in *Findings of Fact #2*, above. Therefore, petitioner is liable for the MA overpayment detailed in *Findings of Fact #2*, above, and must repay it.

Petitioner argues that she did not know she had to report. She argues that she did not even know she was eligible for MA at the time because her MA opened as a result of a "cascade" from the federal marketplace when her income appeared to be low enough. However, as detailed in the above *Findings of*

Fact, petitioner was sent 2 letter notices informing her that she was eligible for MA and that she must report.

CONCLUSIONS OF LAW

For the reasons discussed above, petitioner is liable for the MA overpayment detailed in *Findings of Fact* #2, above, and must repay it.

NOW, THEREFORE, it is

ORDERED

That 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 5th day of February, 2016

\sSean P. Maloney
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 February 5, 2016.

Dane County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability