



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION
MOP/170054

PRELIMINARY RECITALS

Pursuant to a petition filed November 09, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Waupaca County Department of Social Services in regard to Medical Assistance, a hearing was held on January 27, 2016, at Appleton, Wisconsin.

The issue for determination is whether Petitioner was overpaid BadgerCare+ benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Amy Schuelke

Waupaca County Department of Social Services
811 Harding Street
Waupaca, WI 54981-2087

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Outagamie County.
2. Petitioner was sent a BadgerCare+ overpayment notice dated September 1, 2015. It informed Petitioner that she had been overissued BadgerCare+ benefits in the amount of \$912.00 for the period from January 1, 2014 through July 31, 2014. The reason for the alleged overissuance was that Petitioner did not report income in excess of reporting limits.
3. Petitioner's household size for BadgerCare+ purposes at all times relevant here was 2, Petitioner and a child.
4. The overpayment alleged consists of premiums paid by the State for Petitioner's health care coverage.
5. A notice was mailed to Petitioner in November 2013 did inform Petitioner that she had to report gross income in excess of \$1292.50 per month.

6. A wage cross match for Petitioner was performed by the agency in August 2015 and it learned that Petitioner had unreported employment and income. Petitioner had 2 employers during the period of the overpayment alleged here. From the months of November 2013 through July 2014 the lowest gross monthly income was \$1686.09.
7. 100% of the Federal Poverty Level for a household of 2 during the time involved here was \$1292.50; 133% was \$1719.04 and 200% was \$2585.00.

DISCUSSION

The Department may recover any overpayment of medical assistance that occurs because of the following:

1. A misstatement or omission of fact by a person supplying information in an application for benefits under this subchapter or s. 49.665 [BadgerCare].
2. The failure of a Medical Assistance or Badger Care 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.
3. The failure of a Medical Assistance or Badger Care 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).

Further, the overpayment may only be recovered if the BadgerCare+ recipient was informed of the need to report. *BEH, §28.1.*

Further, at all times relevant here all medical assistance recipients were required to report certain changes to the agency within 10 days. *Wis. Admin. Code, § DHS § 104.02(6).* Those receiving BadgerCare Plus had to report changes in income when the income reached any of the following levels:

- 100% FPL
- 133% FPL
- 150% FPL
- 185% FPL
- 200% FPL
- 250% FPL
- 300% FPL
- 350% FPL
- 400% FPL

BadgerCare+ Eligibility Handbook, § 27.3; release 13-02, effective 10/1/13.

Gross income is counted when determining BC+ eligibility. *BEH, §16.1.* The gross income limit for an adult for BadgerCare+ was 200% of the Federal Poverty Level (FPL) during a portion of the period of this alleged overissuance, specifically November 2013 through March 31, 2014. *BEH, §16.1, release 07-02.* 200% of the FPL for a group of 2 was \$2585.00.

As of July 1, 2012 parents were required to pay a premium if income exceeded 133% of the FPL. *BEH, §12-02, effective 7/1/12.* 133% of the FPL was for a group of 2 was \$1719.04 as of February 1, 2013. *See Operations Memo 13-02, issued 2/4/13 and effective 2/1/13.* As of April 1, 2014 the income limit for an adult dropped to 100% of the FPL.

Additionally, during the period relevant here children in a group with income in excess of 200% (non MAGI) or 201% (MAGI) of the FPL were required to pay a premium. *BEH, §19.1, Releases 13-02, 14-01 and 14-02.*

Petitioner did not report income as required. Petitioner did testify that she was not aware of the need to report overtime. I am, therefore, sustaining the overpayment determination.

CONCLUSIONS OF LAW

That the agency has presented evidence sufficient to demonstrate that Petitioner was overpaid BadgerCare+ benefits as alleged.

THEREFORE, it is

ORDERED

That 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 29th day of February, 2016

\sDavid D. Fleming
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 29, 2016.

Waupaca County Department of Social Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability