



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/170216

PRELIMINARY RECITALS

Pursuant to a petition filed November 17, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Sheboygan County Department of Human Services in regard to Medical Assistance, a hearing was held on December 22, 2015, at Sheboygan, Wisconsin.

The issue for determination is whether the agency correctly determined that the petitioner was overpaid \$2,029.97 in BadgerCare (BC) Plus benefits from August 1, 2014 to May 31, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

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

By: Becky Burdick

Sheboygan County Department of Human Services
3620 Wilgus Ave
Sheboygan, WI 53081

ADMINISTRATIVE LAW JUDGE:

Corinne Balter

Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Sheboygan County. She is the only person in her household.
2. On April 11, 2014 the agency sent the petitioner a notice stating that she would receive BadgerCare (BC) Plus benefits effective April 1, 2015. The notice went on to state that the

petitioner had to report by the 10th day of the following month in which her income increased above \$972.50. The notice also stated that she must report within 10 days if she “has a change in health care coverage.”

3. The petitioner’s monthly gross income in June 2014 was \$2,136.74. The petitioner never reported an increase in income to the agency.
4. The petitioner’s monthly gross income continued to be over \$972.50 for the entire overpayment period. Her monthly income was \$2,136.74 from June through December 2014. In January 2015 her monthly gross income increased to \$2,915.20. In February, March, and May 2015 her monthly gross income was \$2,413.54. In April 2015 her monthly gross income was \$3,731.94.
5. On October 26, 2015 the agency sent the petitioner a notice stating that she was overpaid \$2,029.97 in BC Plus benefits for the period from August 1, 2014 to May 31, 2015.
6. On November 19, 2015 the Division of Hearings and Appeals received the petitioner’s Request for Fair Hearing.

DISCUSSION

MA overpayment recovery is authorized by Wis. Stat., §49.497(1):

(a) The department may recover any payment made incorrectly for benefits provided under this subchapter or s. 49.665 if the incorrect payment results from any 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.
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.

See also the department's MA Handbook, Appendix 6.2.1.1. The overpayment must be caused by the client’s error. Overpayments caused by agency error are not recoverable.

The petitioner argues that she should not be responsible for the overpayment because she had other insurance, and did not know that she was covered by BC Plus. She does not dispute the agency’s calculation of her monthly gross income or that she was ineligible for BC Plus benefits during the overpayment period. The agency sent the petitioner a notice at the beginning of her BC Plus benefits. The notice specifically stated that the petitioner had an obligation to report to the agency if her monthly gross income increased above \$972.50. The notice also stated that she had to report any health insurance change. The petitioner failed to report her increase in income and that she obtained health insurance through her employer. This was perhaps an oversight. However, the failure to report caused this BC Plus overpayment.

I reviewed the submitted exhibits regarding the petitioner’s income and net paid Medicaid and net capitation rate for this overpayment period. The agency’s calculation of this overpayment is correct. I

further note that the agency correctly calculated the premium due for the petitioner's son in June and July 2014.

CONCLUSIONS OF LAW

The agency correctly determined that the petitioner was overpaid \$2,029.97 in BadgerCare (BC) Plus benefits from August 1, 2014 to May 31, 2015.

THEREFORE, it is

ORDERED

That the petition 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 5th day of January, 2016

\sCorinne Balter
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 January 5, 2016.

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