



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MOP/170240

PRELIMINARY RECITALS

Pursuant to a petition filed November 18, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on December 16, 2015, at Milwaukee, 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:



Respondent:

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

By: Simoe Johnson
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Milwaukee County.
2. Petitioner was sent a BadgerCare+ overpayment notice dated October 29, 2015. It informed Petitioner that she had been overissued BadgerCare+ benefits in the amount of \$3103.05 for the period from September 1, 2014 through April 30, 2015. The reason for the alleged overissuance was that Petitioner did not report employment and income.

3. The overpayment alleged consists of premiums paid by the State for Petitioner's health care coverage.
4. Petitioner applied for BadgerCare+ on February 20, 2014. An interview completing the application process was completed on March 11, 2014. That application was approved with eligibility beginning April 1, 2014. Positive notices dated were mailed to the address provided by Petitioner and to her daughter. An April 3, 2014 notice did inform Petitioner that she had to report gross income in excess of \$972.50 per month.
5. Petitioner left the country in early April 2014 for about 3 months.
6. Agency case notes indicate that Petitioner called the agency on April 2, 2014 to ask about her medical case and with the help of an interpreter was told that it was open.
7. When Petitioner returned to Wisconsin in July 2014 she obtained employment. She was paid \$9.00 per hour. Her hours varied but were close to 80 hours every 2 weeks except for holiday periods in late 2014 and early 2015. Even so Petitioner's gross was well in excess of 100% of the Federal Poverty Level at all times relevant here – her lowest gross appears to have been in December 2014 and was still over \$1200.00.
8. Petitioner did not report her new employment until the annual case review in the spring of 2015.
9. Petitioner's household size for BadgerCare+ purposes is 1.

DISCUSSION

As of April 2014, adults without dependent children became eligible for the State BadgerCare+ Medicaid program. The income limit for these adults was, and is, 100% of the Federal Poverty Level. As of April 1, 2014 100% of the FPL for a group of was \$972.50 and it remained at that amount until February 1, 2015 when it increased to \$980.83. *See Operations Memo 15-05, at page 7.* As a practical matter Petitioner's income was always over 100% of the FPL for a group of 1 during the months of this alleged overpayment.

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.

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).

Petitioner contends she never received any notices here so was unaware that she had BadgerCare+ coverage. Further, she stated that the postal carrier mixes up and/or opens her mail. I am not convinced that this occurs. The agency was asked to check after the hearing to see if it had a record of returned mail for Petitioner - it checked records and found that the only returned mail was from a PO Box for Petitioner in May 2015. Finally, I also note that Division of Hearings and Appeals mail was forwarded to Petitioner.

Petitioner applied for benefits and then left the country but returned and obtained new employment that was not reported. The taxpayer financed BadgerCare+ program paid for medical coverage for Petitioner. There is a record of an inquiry from Petitioner on April 2, 2014 as to her health coverage but nothing after that until Petitioner called about the closure of the case in April 2015 for lack of a renewal which she then completed at the time of the call.

I do not see how there is any error here on the part of the agency; rather Petitioner did not report income as required. 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 10th 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 10, 2016.

Milwaukee Enrollment Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability