



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/170838

PRELIMINARY RECITALS

Pursuant to a petition filed December 15, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Brown County Human Services in regard to Medical Assistance, a hearing was held on January 21, 2016, at Manitowoc, Wisconsin.

The issue for determination is whether the agency properly seeks to recover an overissuance of BC+ benefits from the Petitioner in the amount of \$2,332.38 for the period of July 1, 2014 – January 31, 2015.

There appeared at that time and place 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]
Brown County Human Services
Economic Support-2nd Floor
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Manitowoc County.

2. On March 5, 2014, the agency received an application for BadgerCare Plus (BC+) benefits for the Petitioner from the federal marketplace. A household of one was reported. No income was reported.
3. On March 13, 2014, a Notice of Decision was issued to the Petitioner informing her that she was enrolled in BC+ effective April 1, 2014 with no monthly premium. The notice also informed the Petitioner that if her total monthly gross income exceeded \$972.50, she must report her income to the agency by the 10th day of the next month.
4. In February, 2015, the agency received a wage discrepancy alert related to the Petitioner.
5. Petitioner did not complete a renewal for BC+. Her case was closed effective January 31, 2015.
6. On November 5, 2015, the agency received employment and earned income verification for the Petitioner from [REDACTED] as follows:

Month/Year	Gross Income
May, 2014	\$1,892.83
June, 2014	\$2,106.97
July, 2014	\$1,671.59
August, 2014	\$3,224.28
September, 2014	\$1,541.00
October, 2014	\$2,572.47
November, 2014	\$1,082.00
December, 2014	\$1,048.58
January, 2015	\$1,465.30

7. On November 12, 2015, the agency issued a Medical Assistance/BadgerCare/BadgerCare Plus Overpayment Notice to the Petitioner informing her that the agency intends to recover an overissuance of BC+ benefits in the amount of \$2,332.38 for the period of July 1, 2014 – January 31, 2015 due to Petitioner not reporting household income exceeding program limits.

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).

Medical assistance recipients, including BC+ recipients, must report relevant changes to the agency within 10 days. Wis. Stat. § 49.497(1); Wis. Admin. Code § DHS 104.02(6); BC + Eligibility Handbook

§ 27.3. The petitioner received BC+, the medical assistance program for those whose income is below the federal poverty level who are not elderly or disabled. Wis. Stat. § 49.471. Because eligibility depends upon countable income vis á vis the federal poverty level, recipients must report when their income exceeds the eligibility limit. BC+ Eligibility Handbook § 27.3.

The county agency alleges that in May, 2014, the Petitioner's income exceeded the program limits and required the Petitioner to report her income to the agency by the 10th day of June, 2014. This would have impacted Petitioner's benefits beginning in July, 2014.

The Petitioner testified that she was not aware that she was enrolled in BC+ during the overpayment period. The Petitioner testified that she did not want public health insurance but applied to the federal marketplace because she did not want to incur a penalty for not applying. Because she was not employed and had no income, her application was referred to the state as eligible for BC+. The Petitioner conceded that she received the notice of decision that she was enrolled, received a ForwardHealth card and read the notice that she must report her income. She testified that she did not use the ForwardHealth card or otherwise use the BC+ benefits.

I recognize the Petitioner's assertion that she did not want BC+. However, I must conclude that she was enrolled in the program and was properly notified of her enrollment. As a result of her enrollment, the agency paid capitation rates during the overpayment period for the Petitioner's healthcare coverage. Because of her income, as evidenced by the verification from her employer, she was not entitled to coverage because her income exceeded the program limit. The agency is authorized to recover the capitation amounts that were paid on her behalf.

CONCLUSIONS OF LAW

The agency is authorized to recover the capitation amounts that were paid on her behalf.

THEREFORE, it is **ORDERED**

That the Petitioner's 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

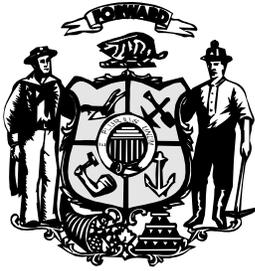
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those 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 8th day of March, 2016

\sDebra Bursinger
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 8, 2016.

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