



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/171001

PRELIMINARY RECITALS

Pursuant to a petition filed December 22, 2015, under Wis. Stat., §49.45(5), to review a decision by the Rock County Dept. of Social Services to recover Medical Assistance (MA), a hearing was held on January 27, 2016, by telephone.

The issue for determination is whether the agency correctly determined an MA overpayment resulting from a failure to report income.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: [REDACTED]
Rock County Dept. of Social Services
P.O. Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County. She resides with her husband.
2. The couple applied for BadgerCare Plus (BC+) MA in August, 2014. They reported then that the only income was his social security of \$732 per month. By a notice dated August 26, 2014, the county informed them that they were eligible for BC+ with no premium. The notice included a section informing them that if household income rose above \$1,310.83 in a month they needed to report the increase.

3. Petitioner began to work for a home health agency in late September, 2014. She earned \$3,900 in October, 2014, and her income consistently was above \$2,000 per month thereafter.
4. There is no record that the couple reported her job to the agency. In February, 2015, the couple filed a six month report form with the agency. No job was reported, and the line "Check here if no one is employed" was checked.
5. In May, 2015, the county discovered the income via a state wage match. It obtained verification of petitioner's income.
6. By a notice dated December , 2015, the county informed petitioner that the couple was overpaid a total of \$7,375.15 in MA, claim nos. [REDACTED] and [REDACTED]. The overpayments were determined by compiling all MA payments made on the couple's behalf during the period December 1, 2014 through June 30, 2015.

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 BC+ Handbook, Appendix 28.2. The overpayment must be caused by the client's error. Overpayments caused by agency error are not recoverable.

An overpayment is determined as follows: "If the case was ineligible for BC+, recover the amount of medical claims paid by the state and/or the capitation rate. Use the ForwardHealth interChange data from the Total Benefits Paid by Medicaid Report(s). Deduct any amount paid in premiums (for each month in which an overpayment occurred) from the overpayment amount." Handbook, App. 28.4.2.

After petitioner started working her income put the couple over the BC+ income limit of \$1,310.83. See BC+ Handbook, Appendix 50.1 for income limits. Therefore all medical claims paid by the state are considered overpaid. The claims include monthly HMO capitation fees as well as fee-for-service claims.

Petitioner's husband testified that he brought petitioner's pay stubs to the county in November, 2014, and a receptionist copied them. There is no record of that happening, and I looked into the computer record and found no scanned pay stubs. I can find no record that petitioner or her husband ever reported the

employment. Furthermore, the testimony is contradicted by the statement on the six-month report, filed in February, 2015, that no one in the household is employed.

I reviewed the overpayment calculations and found no errors. I conclude, therefore, that the agency correctly determined the overpayment in this case.

CONCLUSIONS OF LAW

The county correctly determined that petitioner was overpaid MA because she failed to report income.

THEREFORE, it is ORDERED

That the petition for review 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 1st day of February, 2016

\sBrian C. Schneider
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 1, 2016.

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