



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MOP/171120

PRELIMINARY RECITALS

Pursuant to a petition filed December 31, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Washington County Department of Social Services in regard to Medical Assistance (MA), a hearing was held on April 14, 2016, at West Bend, 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 \$1,734.16 for the period of August 1, 2015 – November 30, 2015.

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:

Washington County Department of Social Services
333 E. Washington Street
Suite 3100
West Bend, WI 53095

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES #) is a resident of Washington County.
2. On April 1, 2014, the Petitioner was approved for BC+ benefits based on no household income.

3. On April 28, 2014, the agency issued a Notice of Decision to the Petitioner at her reported address informing her that she was eligible for BC+ benefits with no monthly premium. The notice also informed her that she was required to report to the agency by the 10th day of the next month if her gross monthly household income exceeded \$972.50. This mailing was not returned to the agency as “undeliverable.”
4. On July 28, 2014, the Petitioner submitted a Six Month Report Form (SMRF). She reported no changes in household income.
5. On September 8, 2014, the agency issued a Notice of Decision to the Petitioner at her reported address informing her that her BC+ benefits would continue. It informed her that she was required to report to the agency by the 10th day of the next month if her monthly gross household income exceeded \$1,265. It informed her that a failure to report this change in income could result in being required to pay back benefits. This mailing was not returned to the agency as “undeliverable.”
6. On December 15, 2014, Petitioner was hired at [REDACTED]. Petitioner’s employer reported her wages as follows:

May, 2015	\$ 200.00
June, 2015	\$3,160.02
July, 2015	\$2,400.00
August, 2015	\$2,400.00
September, 2015	\$2,400.00
October, 2015	\$6,662.41
November, 2015	\$9,214.69
7. On February 9, 2015, the Petitioner completed a renewal interview with the agency. She reported being in a training program with [REDACTED]. No income was reported.
8. On November 11, 2015, the agency received a wage discrepancy alert that an employer had reported wages for the Petitioner.
9. On November 16, 2015, the agency issued a Notice of Decision to the Petitioner informing her that her BC+ benefits would end effective December 1, 2015 due to income exceeding the program limit.
10. On December 3, 2015, the agency issued a Medicaid/BadgerCare/BadgerCare Plus Overpayment Notice to the Petitioner at her reported address informing her that the agency intends to recover an overissuance of BC+ benefits in the amount of \$1,734.16 for the period of August 1, 2015 – November 30, 2015 due to member error in not reporting new employment.
11. On December 31, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

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, § 28.2. The overpayment must be caused by the client's error. Overpayments caused by agency error are not recoverable.

An MA recipient must report the receipt of income that could affect eligibility. Wis. Admin. Code, § DHS 103.04. An MA applicant/recipient has the duty to provide verification of income. Wis. Admin. Code, § DHS 102.03(3)(a).

At the hearing, the Petitioner testified that she did not receive any of the notices issued to her by the agency since February, 2015 except the notice of overpayment. I do not find the Petitioner's testimony to be credible. The notices were mailed to the correct address and were not returned to the agency as undeliverable. The Petitioner testified that she was unaware of the reporting requirements. The notices clearly informed the Petitioner of the requirement to report to the agency if her monthly household income exceeded \$972.50 and then \$1,265. The Petitioner testified that she told her physician that she had new insurance that he should bill. This is irrelevant as the BC+ program continued to pay a monthly capitation rate for her coverage. Petitioner also testified that she had many medical and family health issues in August and September which occupied her time. Again, I find this to be irrelevant to her requirement to report to the agency by July 10, 2015 when her June, 2015 income exceeded the reporting requirement.

I reviewed the agency's evidence regarding the amount of the overpayment and find that it is accurate based on the capitation rate and claims paid by the agency on the Petitioner's behalf. I further conclude that the overpayment period is correct. The evidence establishes that the Petitioner's income exceeded the reporting requirement in June, 2015. She was required to report this change by July 10, 2015 which would have affected her benefits beginning August 1, 2015.

Based on the evidence presented, I conclude the agency properly seeks to recover an overissuance of BC+ benefits from the Petitioner in the amount of \$1,734.16 for the period of August 1, 2015 – November 30, 2015.

CONCLUSIONS OF LAW

The agency properly seeks to recover an overissuance of BC+ benefits to the Petitioner in the amount of \$1,734.16 for the period of August 1, 2015 – November 30, 2015.

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 23rd day of May, 2016

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on May 23, 2016.

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