



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/172682

PRELIMINARY RECITALS

Pursuant to a petition filed March 10, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Calumet County Department of Human Services in regard to Medical Assistance (MA), a hearing was held on May 10, 2016, at Appleton, Wisconsin.

The issue for determination is whether the agency correctly determined that the petitioner was overpaid \$1,242.34 in Medicaid (MA) benefits from May 1, 2015 through July 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]
Calumet County Department of Human Services
206 Court Street
Chilton, WI 53014-1198

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Outagamie County. She is a two person household consisting of herself and her husband.

2. On January 21, 2015 the petitioner and her husband applied for Medicaid (MA) benefits. They reported that their only monthly income was \$872 from the husband's social security. The agency opened the petitioner and her husband for MA/BadgerCare (BC) Plus benefits.
3. On January 22, 2015 the agency sent the petitioner a notice stating that the petitioner and her husband were eligible for BC Plus benefits. The notice went on to state that the household must report by the 10th day of the following month if their monthly household income went above \$1,310.83.
4. The petitioner and her husband received BC Plus coverage through July 31, 2015.
5. In late 2015 the agency received a state wage discrepancy. Employers report wages to the State. If an employer reports additional wages that were not reported to the agency, the agency receives a state wage match. This state wage discrepancy showed that the petitioner's husband was receiving income from [REDACTED] in the 2nd quarter of 2015. The agency requested verification from the employer of the petitioner's actual wages. The employer reported the following wages:
 - a. March 2015 - \$1,218.75
 - b. April 2015 - \$1,303.25
 - c. May 2015 - \$1,303.25
 - d. June 2015 - \$1,300
 - e. July 2015 - \$1,303.25
6. The petitioner's husband continued to receive social security from March 2015 through July 2015. The petitioner and her husband never reported the husband's job to the agency. Between May 1, 2015 and July 31, 2015 the State paid \$1,242.34 for the household's BC Plus coverage.
7. On February 18, 2016 the agency sent the petitioner a notice stating that the household was overpaid \$1,242.34 in Medicaid (MA) benefits from May 1, 2015 through July 31, 2015.
8. The Division of Hearings and Appeals received the petitioner's Request for Fair Hearing on March 10, 2016.

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.

Under BC+ rules the income limit for childless adult is 100% of the poverty level. BC+ Handbook, Appendix 16.1.1. That amount for a two-person household at the time of this overpayment was \$1,310.83. BC+ Handbook, App. 50.1. The notices sent to BC Plus recipients reflect the eligibility limits in the reporting requirements. A childless adult must report when his or her monthly household gross income exceeds 100% of the poverty level, which is \$1,310.83 for a household of one. BC+ Handbook, App. 27.3.

The agency sent the petitioner a notice stating that she would receive BC Plus benefits, and that she would have to report when her income exceeded \$1,310.83. The petitioner's income exceeded this reporting requirement in March 2015. She had until April 10, 2015 to report this increase in income. She failed to report her increase in income to the agency. This failure to report caused the overpayment. Had she timely report the household's increase in income, the household's BC Plus benefits would have terminated effective May 1, 2015. She continued to receive BC Plus coverage from May 1, 2015 through July 31, 2015. This is the overpayment period.

The petitioner brought a tax return, which stated that the household's employment income for 2015 was \$10,458. They received an additional \$10,585 from social security. I note that this amounts to a monthly gross income of \$1,753.58. This is above 100% FPL for a household size of two. The petitioner may apply for health coverage through the marketplace. She should be eligible for marketplace insurance. If she is denied marketplace insurance, she may contact the County for BC Plus benefits through gap coverage.

CONCLUSIONS OF LAW

The agency correctly determined that the petitioner was overpaid \$1,242.34 in Medicaid (MA) benefits from May 1, 2015 through July 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 1st day of June, 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 June 1, 2016.

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