



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MOP/172989

PRELIMINARY RECITALS

Pursuant to a petition filed March 22, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance (MA), a hearing was held on April 13, 2016, at Racine, Wisconsin.

The issue for determination is whether the agency correctly established a medical overpayment in the amount of \$1,388.81 for the period from January 1, 2015 to April 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: [Redacted]

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [Redacted]) is a resident of Racine County. She is the only person in her household.
2. On March 10, 2016 the agency sent the petitioner a notice stating that she was overpaid \$1,388.81 in Medicaid (MA) benefits from January 1, 2015 to April 30, 2015.

3. Prior to this overpayment period, on May 30, 2014, the agency sent the petitioner a notice stating that she had to report by the 10th day of the following month in which her income before taxes went over \$972.50.
4. The petitioner's income was as follows:
 - a. \$1,807.32 – October 2014
 - b. \$1,884.89 – November 2014
 - c. \$892.51 – December 2014
 - d. \$1,725.51 – January 2015
 - e. \$995.13 – February 2015
 - f. \$1,227.75 – March 2015
 - g. \$1,825.91 – April 2015
5. The petitioner never reported to the agency that her income increased above the reporting requirement.
6. In March 2015 the petitioner completed a six month report form. The form was originally submitted on March 4. That form was incomplete and returned. A complete form was submitted and received on March 24, 2015. The petitioner accurately reported her income. Unfortunately, she still received BadgerCare (BC) Plus benefits for April 2015 because the complete form was submitted late, and the agency could not stop those benefits from issuing for April 2015.
7. The petitioner received BC Plus benefits from January 1, 2015 to April 30, 2015. During this time period she was over the BC Plus income limit, and not eligible for benefits.
8. On March 22, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

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 Plus rules the income limit for childless adult is 100% of the poverty level. BC Plus Handbook, Appendix 16.1.1. That amount for a one-person household at the time of this overpayment was \$972.50. BC Plus 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 \$972.50 for a household of one. BC Plus Handbook, App. 27.3.

In this case the petitioner's income exceeded 100% FPL in October 2014. She had until November 2014 to report this increase in income. She failed to report the increase. The agency did not establish an overpayment until January 1, 2015 because in December 2014 the petitioner's actual income was less than 100% FPL. I note that had the petitioner followed the reporting requirements, she would not have received BC Plus benefits for December of 2014. Given the petitioner's actual income, the agency is correct in beginning the overpayment January 2015.

The petitioner argues that she turned in all the forms as requested and did everything that they told her to do. She is correct that she completed the six month report forms. This is not enough though. If a person's income increases so that the person is ineligible for benefits, the person must report the increase in income. The petitioner failed to do that. I further note that her six month report form for March 2015 was submitted late, which caused this overpayment to extend into April 2015.

In calculating the amount of the overpayment the agency uses the amount that it paid for the petitioner's BC Plus benefits when she was ineligible to receive those benefits. That amount is \$1,388.81.

CONCLUSIONS OF LAW

The agency correctly established a medical overpayment in the amount of \$1,388.81 for the period from January 1, 2015 to April 30, 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 12th day of May, 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 May 12, 2016.

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