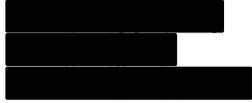




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MOP/173602

PRELIMINARY RECITALS

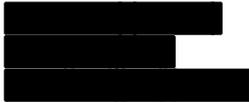
Pursuant to a petition filed April 07, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Kenosha County Human Service Department in regard to Medical Assistance (MA), a hearing was held on May 12, 2016, at Kenosha, Wisconsin.

The issue for determination is whether the agency correctly established a medical overpayment in the amount of \$13,664.11 for the period of March 1, 2015 through June 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:

Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES #) is a resident of Kenosha County. She is the only person in her household.
2. On April 4, 2016 the agency sent the petitioner a notice stating that she was overpaid \$13,664.11 in medical benefits from March 1, 2015 to June 30, 2015.

3. In September 2014 the petitioner completed a renewal for her FS and Medical benefits. She reported and verified that her monthly gross income was \$948.16.
4. On October 9, 2014 the agency sent the petitioner a notice stating her FS and Medical benefits. The notice went on to state that “if your household’s total monthly income (before taxes) goes over \$972.50, you must report it by the 10th day of the next month.”
5. The petitioner’s monthly gross income was as follows:
 - a. January 2015 - \$1,384.60
 - b. February 2015 - \$765.10
 - c. March 2015 and April 2015 - \$1,375.00
 - d. May 2015 - \$1,771
 - e. June 2015 - \$1,240
6. The petitioner never reported her increase in income to the agency.
7. The petitioner continued to receive medical benefits from March 1, 2015 to June 30, 2015. The total amount paid for the petitioner’s coverage and claims during this overpayment period was \$13,664.11.
8. The Division of Hearings and Appeals received the petitioner’s Request for Fair Hearing on April 11, 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 one-person household at the time of this overpayment was \$972.50. 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 \$972.50 for a household of one. BC+ Handbook, App. 27.3.

The agency sent the petitioner a notice stating that she had to report when her income increased above \$972.50. The petitioner's income increased above this reporting requirement in January 2015. She had until February 10th to report her increase in income. Had she timely reported her income increase, her BC Plus benefits would have terminated effective March 1, 2015. The petitioner failed to report her increase in income, and continued to receive BC Plus benefits from March 1, 2015 to June 30, 2015. The total amount that the State paid for these benefits and claims was \$13,664.11. The petitioner was ineligible for coverage, and thus is responsible for this overpayment.

The petitioner argued that she did not know she had to report her increase in income. The agency sent the petitioner a notice explaining this reporting requirement. I note that the agency alleges this overpayment was due to client error. They do not allege that it was intentional.

The petitioner further argued that she cannot afford to repay this overpayment. I have no equitable authority. This issue is between the petitioner and the agency. If the petitioner fails to pay, she could be subject to further collection action. On the other hand, if there is no money, the agency may find it very difficult to collect the overpayment. This does not change that the agency correctly established this overpayment.

CONCLUSIONS OF LAW

The agency correctly established a medical overpayment in the amount of \$13,664.11 for the period of March 1, 2015 through June 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 20th 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 20, 2016.

Kenosha County Human Service Department
Public Assistance Collection Unit
Division of Health Care Access and Accountability