



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MOP/173677

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**PRELIMINARY RECITALS**

Pursuant to a petition filed April 12, 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 established a Medicaid (MA) overpayment in the amount of \$2,362.46 for the period from July 1, 2015 to March 31, 2016.

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 the only person in her household.

2. The petitioner received BadgerCare (BC) Plus benefits from August 1, 2014 through February 28, 2015. Her BC Plus benefits closed effective March 1, 2015 because she applied for FoodShare (FS) benefits, and the agency learned that she was over income for BC Plus.
3. On March 20, 2015 the petitioner called the agency to report that one her jobs had ended and that she was no longer in college. In April 2015 the petitioner provided verification of her employment income. She never provided verification that she no longer received educational aide; however, because school ended in May, the agency did not count educational aide income beginning June 1, 2015.
4. On May 1, 2015 the agency sent the petitioner a notice stating that she would eligible for BC Plus benefits effective June 1, 2015. This notice went on to state, "if your household's total monthly income (before taxes) goes over \$980.83, you must report it by the 10<sup>th</sup> day of the next month."
5. The petitioner's monthly income exceeded the reporting requirement in May 2015. Her wages continued to be exceed the reporting requirement all months through March 31, 2016 except for October 2015. The agency did not establish an overpayment for October 2015.
6. Between July 1, 2015 and March 31, 2016 the State paid \$2,362.46 for the petitioner's BC Plus benefits. This amount excludes what the State paid in October 2015 when the petitioner was eligible for BC Plus benefits.
7. On March 3, 2016 the agency sent the petitioner a notice stating that she had been overpaid \$2,362.46 in BC Plus benefits from July 1, 2015 to March 31, 2016.
8. On April 14, 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+ 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 \$980.83. 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 \$980.83 for a household of one. BC+ Handbook, App. 27.3.

The agency sent the petitioner a notice in May 2015 stating that she would receive BC Plus benefits effective June 1, 2015, and that she would have to report when her income exceeded \$980.83. The petitioner's income exceeded this reporting requirement in May 2015. She failed to report her increase in income to the agency. This failure to report caused the overpayment.

The petitioner argues that she was not informed that she had health insurance coverage, and that she never used her health insurance coverage during the overpayment period. I do not find this testimony credible. The petitioner applied for health insurance coverage, she worked with the agency to get the required verification. The agency sent the petitioner a notice stating that she had BC Plus benefits effective June 1, 2015. Given these notices, the petitioner would have been sent a forward health card. The case comments further reflect that the petitioner updated her address with the agency in October 2015 when she moved from [REDACTED] County to [REDACTED] County.

### CONCLUSIONS OF LAW

The agency correctly established a Medicaid (MA) overpayment in the amount of \$2,362.46 for the period from July 1, 2015 to March 31, 2016.

**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).

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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 3rd day of June, 2016

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\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 3, 2016.

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