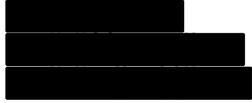




STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

MOP/173699

**PRELIMINARY RECITALS**

Pursuant to a petition filed April 18, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Winnebago County Department of Human Services in regard to Medical Assistance (MA), a hearing was held on May 18, 2016, at Oshkosh, Wisconsin.

The issue for determination is whether the agency correctly established a medical overpayment in the amount of \$2,902.23 for the period from September 1, 2014 to January 1, 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:

Winnebago County Department of Human Services  
220 Washington Ave.  
PO Box 2187  
Oshkosh, WI 54903-2187

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # ) is a resident of Winnebago County. The petitioner is a household size of three.

2. On July 9, 2014 the agency sent the petitioner a notice regarding her FoodShare (FS) benefits. The notice stated that if her monthly household gross income increased above \$1,649.17 she had to report the increase in income by the 10<sup>th</sup> day of the following month. This \$1,649.17 is 100% of the Federal Poverty Level (FPL) for a household size of three.
3. The petitioner's household monthly gross income was as follows:
  - a. July 2014 – \$2,230.05
  - b. August 2014 – \$2,075.43
  - c. September 2014 - \$1,747.75
  - d. October 2014 - \$2,736.46
  - e. November 2014 – \$2,167.70
  - f. December 2014 - \$2,360.61
4. The petitioner never reported an increase in income.
5. On March 11, 2016 the agency sent the petitioner a notice of medical overpayment stating that she was overpaid \$2,902.23 in medical benefits, under claim number [REDACTED], for the period from September 1, 2014 to January 1, 2015.
6. The State paid a total of \$2,902.23 for the petitioner's medical coverage and claims during this overpayment time period.
7. On April 18, 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 three-person household at the time of this overpayment was \$1,649.17. BC+ Handbook, App. 50.1. The notices sent to BC Plus recipients reflect the eligibility limits

in the reporting requirements. The notices inform recipients that they must report by 10<sup>th</sup> of the following month in which their household gross income exceeds the specific reporting requirement.

The agency sent the petitioner a notice stating that she would receive BC Plus, and that she would have to report by the 10<sup>th</sup> of the following month in which her income exceeded \$1,649.17. The petitioner's income exceeded this reporting requirement in July 2014. She had until the 10<sup>th</sup> of August to report this income increase. This would have made her ineligible for BC Plus benefits for adults effective September 1, 2014. She failed to report her increase in income to the agency. This caused the overpayment from September 1, 2014 through January 31, 2015. The overpayment amount is the amount that the State paid for the petitioner's medical coverage and claims during the overpayment period.

The petitioner argues that she did not believe she needed to report because her husband's income was from the Department of Vocational Rehabilitation (DVR). She believed that because this was through the State that the State would know about it. This is a separate State agency. The State did not know about this DVR income immediately. Eventually the agency learned of it, and issued this overpayment notice. The notice sent to the petitioner in July 2014 specifically stated her reporting requirements, which she did not follow. I understand that this was an error, and not intentional. The agency has classified this overpayment as client error.

I note that the agency did not provide income verification for January 2015. The petitioner did not dispute the agency's calculations or that her income was above the reporting requirements in January 2015.

### CONCLUSIONS OF LAW

The agency correctly established a medical overpayment in the amount of \$2,902.23 for the period from September 1, 2014 to January 1, 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

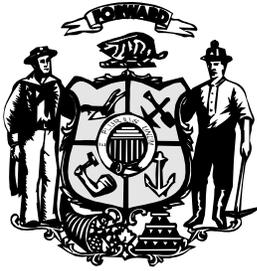
this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

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 27th day of May, 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 May 27, 2016.

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