



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MOP/173872

PRELIMINARY RECITALS

Pursuant to a petition filed April 25, 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 May 25, 2016, at Racine, Wisconsin.

The issue for determination is whether the agency correctly established a medical overpayment in the amount of \$6,099.81 for the period of April 1, 2014 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: [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 a household size of one for the purposes of her healthcare care benefits.
2. On February 24, 2014 the petitioner requested Medical Assistance. On her application she reported that she worked for [Redacted] and [Redacted]

District. That same month she informed the agency that she no longer worked for [REDACTED]. The income reported and verified for [REDACTED] was \$288.30.

3. The petitioner's monthly gross income was as follows:
  - a. January 2014 - \$2,013.67
  - b. February 2014 - \$1786.32
  - c. March 2014 - \$2,289.52
  - d. April 2014 - \$1,828.74
  - e. May 2014 - \$2,145.07
  - f. June 2014 - \$2,006.52
  - g. July 2014 - \$2,775.34
  - h. August 2014 - \$1,710.71
  - i. September 2014 - \$1,911.65
  - j. October 2014 - \$1,819.65
  - k. November 2014 - \$1,670.71
  - l. December 2014 - \$2,870.62
  - m. January 2015 - \$998.08
  - n. February 2015 - \$2,281.71
  - o. March 2015 - \$2,213.38
  - p. April 2015 - \$2,407.45
  - q. May 2015 - \$2,089.87
  - r. June 2015 - \$2,521.09
4. The petitioner never accurately reported her income to the agency.
5. She received BadgerCare (BC) Plus benefits from April 1, 2014 to June 30, 2015. The State paid \$6,099.81 for these benefits.
6. On April 1, 2016 the agency sent the petitioner a BC Plus overpayment notice stating that she was overpaid \$6,099.81 for the period of April 1, 2014 through June 30, 2015.
7. On April 25, 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.

An overpayment caused by client error exists when an applicant unintentionally misstates (financial or non-financial) facts, which results in the member receiving a benefit that he or she is not entitled to or more benefits than he or she is entitled to. BC Plus Handbook, Appendix 28.2. This can happen at the application, renewal, or when a recipient fails to report changes. Id.

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.

In this case the petitioner did not accurately report her income when she applied and at the renewal. She also never reported a change or increase in income. In many months the petitioner's income exceeded \$2,000, yet she had reported that she made less than \$1,000 each month. She testified that she works for one employer, but is paid by two separate entities. She states that she inadvertently verified only one of those entities. The agency states that this was a client error. As a result of this error, the petitioner received \$6,099.81 in BC Plus benefits that she was not entitled to receive.

### **CONCLUSIONS OF LAW**

The agency correctly established a medical overpayment in the amount of \$6,099.81 for the period of April 1, 2014 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 9th 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 9, 2016.

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