



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
MOP- 173956

PRELIMINARY RECITALS

On April 27, 2016, the above Petitioner filed a hearing request under Wis. Stats., §49.45(5), to challenge a decision by the Kenosha County Human Service Department regarding Medical Assistance. The hearing was held on May 26, 2016, by telephone.

The issue for determination is whether Petitioner was overpaid BadgerCare+ benefits.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services

By: [REDACTED]
Kenosha County Human Service
Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. Petitioner was sent 2 BadgerCare+ overpayment notices, one dated March 21, 2016 and the other March 22, 2016. Both informed Petitioner that he had been overissued BadgerCare+ benefits in the amount of \$831.86 for the period from October 1, 2014 to March 31, 2015. Though the time period of

the overissuance noted in the overpayment notices is the six months from October 2014 through March 2015, the month of December 2014 is not included as Petitioner was under the income limit in that month.

3. Petitioner's household size for BadgerCare+ purposes at all times relevant here was 1 - Petitioner himself. 100% of the Federal Poverty Level for a household of 1 during the time involved here was \$972.50 before increasing for the last couple of months to \$980.83.
4. The overpayment alleged consists of premiums paid by the State for Petitioner's health care coverage as well as medical bills.
5. The reason for the overissuance alleged here is that Petitioner made an error on a six month report form. That error made it appear that earned income from the [REDACTED] had ended. Based on this Petitioner's FoodShare allotment increased.
6. The six month report form involved here was completed on September 11, 2014. Petitioner had 2 jobs listed, one being the [REDACTED] and the other an employment that ended. He inadvertently put the end date for the one employer for both employers. He had also indicated that there was no change to the [REDACTED] job so; again, it is apparent that this was just a mistake.

DISCUSSION

As of April 2014, adults without dependent children became eligible for the State BadgerCare+ Medicaid program if they met certain financial and nonfinancial criteria. The gross income limit for these adults was, and is, 100% of the Federal Poverty Level. As of February 1, 2015 100% of the FPL for a group of 1 was \$980.83. *See Operations Memo 15-05, at page 7.* Prior to that it was \$972.50. As a practical matter Petitioner's gross income was always over 100% of the FPL for a group of 1 during the months of this alleged overpayment except for December 2014.

The Department may recover any overpayment of medical assistance that occurs because 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 [BadgerCare].
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. *Wis. Stat. § 49.497(1).*

It is quite clear from the six month report form and the testimony that Petitioner made a mistake on the SMRF. He was not trying to mislead the agency. Nonetheless, overpayments have to be recovered even in cases of a misstatement. I cannot deem this to be an agency error and do not have a basis for reversing the agency overpayment determination.

CONCLUSIONS OF LAW

That the agency has presented evidence sufficient to demonstrate that Petitioner was overpaid BadgerCare+ benefits as alleged.

THEREFORE, it is

ORDERED

That this appeal 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, **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 13th day of July, 2016

\s _____
David D. Fleming
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 July 13, 2016.

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