



**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MOP - 174211

PRELIMINARY RECITALS

Pursuant to a petition filed on May 10, 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 regarding Medical Assistance (MA), a hearing was held on July 14, 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
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. Petitioner was sent a Medicaid/BadgerCare+ overpayment notice dated April 11, 2016. It informed Petitioner that she had been overissued Medicaid/BadgerCare+ benefits in the amount of \$1562.00

for the period from November 1, 2014 to June 30, 2015. The reason for the alleged overissuance was that Petitioner did not report income in excess of reporting limits.

3. Petitioner's household size for BadgerCare+ purposes at all times relevant here was 1. 100% of the Federal Poverty Level for a household of 1 during the time involved here was \$972.50 as of February 1, 2014 and \$980.83 as of February 1, 2015. See BEH, §50.1, releases 14-01 and 15-01
4. A Notice of Decision dated July 7, 2014, was sent to Petitioner at the above address and informed her that household income in excess of \$972.50 had to be reported to the agency within 10 days of receipt. It confirmed BadgerCare+ enrollment.
5. A Notice dated September 8, 2014 was sent to Petitioner at the above address and mostly concerned FoodShare but confirmed BadgerCare+ coverage.
6. An October 9, 2014 notice concerning BadgerCare+ again informed Petitioner that she had to report income in excess of \$972.50. This notice also confirmed BadgerCare+ coverage. I was sent to Petitioner at the above address.
7. Petitioner's income was \$1185.00 in September 2014 and did not fall below \$2460 for the remainder of the overpayment period.
8. The overpayment alleged here consists of the capitation rate, i.e., premium paid by the State of Wisconsin to an HMO to provide health coverage to Petitioner.

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.* 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.

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).*

The overpayment may only be recovered if the BadgerCare+ recipient was informed of the need to report. *BEH, §28.1.*

The agency does not have a record of that report or income verification and Petitioner does not have records to demonstrate it. There is a case note from July 2014 that indicates a report of major medical coverage and that is confirmed in October 2014 but it appears to be a system alert. By itself it is not

sufficient to conclude that Petitioner met the income reporting requirement. Further, there are the notices referred to at Finding #s 4.5 and 6 that informed Petitioner that she had BadgerCare+ coverage but did not trigger reporting or inquiry from Petitioner. I conclude that Petitioner did not report income as required and do not find 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 26th day of August, 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 August 26, 2016.

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