



FH



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

In the Matter of



DECISION

MOP- 174548

PRELIMINARY RECITALS

On May 20, 2016, the above petitioner filed a hearing request under Wis. Stats., § 49.45, to challenge a decision by the Kenosha County Human Service Department regarding Medical Assistance (MA). The hearing was held on June 21, 2016, via telephone at Kenosha, Wisconsin.

The issue for determination is whether the agency properly seeks to recover an overissuance of MA benefits in the amount of \$793.50 from the Petitioner for the period of April, 2015 – June, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services



Kenosha County Human Service
Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger

Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Kenosha County.

2. On December 26, 2014, the Petitioner contacted the agency to complete a BC+ renewal. She reported a household of three. She reported she and her sons were employed and that she receives child support. The case was pended for employment verification.
3. On January 6, 2015, the Petitioner submitted an application for FS benefits.
4. On January 9, 2015, the agency received verification that the Petitioner was no longer employed.
5. On January 12, 2015, the agency issued a Notice of Decision to the Petitioner informing her that she was approved for BC+ benefits effective February 1, 2015 with no monthly premium. The notice informed her that this was based on \$0 income. The notice further informed her that she must report to the agency by the 10th day of the next month if her gross household income exceeds \$1,310.83/month.
6. On February 2, 2015, the agency issued a Notice of Decision to the Petitioner informing her that her healthcare benefits would continue and that she would receive FS benefits of \$264 for January, 2015 and \$315/month effective February 1, 2016. The notice informed her that this was based on gross household income of \$1,385.19/month. The notice further informed her that she must report to the agency by the 10th day of the next month if her gross household income exceeds \$2,144/month.
7. In February, 2015, the Petitioner started employment at [REDACTED]. Her employment with [REDACTED] ended in March, 2015. Petitioner started employment at [REDACTED] and the [REDACTED] in March, 2015. [REDACTED] worked at [REDACTED] from February – June, 2015. The household received unearned income of \$945.62/month. Earned income for the household in February and March was as follows:

	[REDACTED]	Petitioner	Total
Feb. 2015	\$439.57	\$1,341 ([REDACTED])	\$1,780.57
March, 2015	\$439.57	\$527 ([REDACTED]) + \$230 ([REDACTED])	\$1,196.57

Total household income including earned and unearned income for February, 2015 was \$2,726.19 and for March \$2,142.19.

8. In or about April, 2015, [REDACTED] turned 18 years of age. [REDACTED] was employed at [REDACTED]. The household continued to receive \$945.62/month in unearned income. Total gross earned income for April, May and June was as follows:

	[REDACTED]	[REDACTED]	Petitioner	Total
April, 2015	\$439.57		\$1,082 ([REDACTED])	
			\$ 252 ([REDACTED])	\$1,773.57
May, 2015	\$439.57	\$551.09	\$1,430 ([REDACTED])	\$2,420.66
June, 2015	\$439.57	\$551.09	\$1,374 ([REDACTED])	\$2,364.66

Total household income including earned and unearned income was as follows:

April, 2015	\$2,719.19
May, 2015	\$3,366.28
June, 2015	\$3,310.28

8. On April 21, 2016, the agency issued a BC+ Overpayment Notice and worksheets to the Petitioner informing her that the agency seeks to recover an overissuance of BC+ benefits in the amount of \$793.53 for the period of April 1, 2015 – June 30, 2015 due to client error in failing to report income.
9. On May 20, 2016, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

The Department of Health Services (Department) is legally required to seek recovery of incorrect BC+ payments when a recipient engages in a misstatement or omission of fact on a BC+ application, or fails to report income information, which in turn gives rise to a BC+ overpayment:

49.497 Recovery of incorrect medical assistance payments. (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.

(b) The department's right of recovery is against any medical assistance recipient to whom or on whose behalf the incorrect payment was made. The extent of recovery is limited to the amount of the benefits incorrectly granted.

In this case, the Petitioner testified that she never requested BC+ and that she was unaware that she was receiving BC+ benefits. She stated that she obtained insurance through the FFM in or about January, 2015 and didn't need BC+ benefits.

The agency produced the Petitioner's application requesting BC+ benefits. It further produced the Notice that was sent to the Petitioner informing her that she was enrolled in BC+ benefits effective February 1, 2015. If the Petitioner did not want to receive these benefits, she needed to contact the agency to cancel her enrollment. Because she failed to do so, the agency paid a monthly capitation rate for her BC+ coverage.

The agency also produced evidence to demonstrate that the Petitioner exceeded the income limit for the program in February, 2015 when her total gross monthly income was \$1,342. Per the notice, the Petitioner was required to notify the agency of her income by the 10th day of March, 2015. This would have impacted the Petitioner's benefits beginning April 1, 2015. Because the Petitioner did not notify the agency of her income exceeding the program limit, she continued to receive BC+ benefits that she was not entitled to receive. The overpayment ended when the Petitioner's BC+ case was closed effective July 1, 2015.

Based on the evidence presented, I conclude the agency properly seeks to recover an overissuance of BC+ benefits from the Petitioner in the amount of \$793.53 for the period of April 1, 2015 – June 30, 2015.

CONCLUSIONS OF LAW

The agency properly seeks to recover an overissuance of BC+ benefits from the Petitioner in the amount of \$793.53 for the period of April 1, 2015 – June 30, 2015.

THEREFORE, it is

ORDERED

That the Petitioner's 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 4th day of August, 2016

\s _____
Debra Bursinger
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 4, 2016.

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