



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MOP - 174703

PRELIMINARY RECITALS

Pursuant to a petition filed on May 26, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Waupaca County Department of Social Services regarding Medical Assistance (MA), a hearing was held on July 6, 2016, by telephone.

The issue for determination is whether the agency properly seeks to recover an overissuance of BC+ benefits from the Petitioner in the amount of \$658 for the period of January 1, 2015 – February 28, 2015.

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]
Waupaca County Department of Social Services
811 Harding Street
Waupaca, WI 54981-2087

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Outagamie County.
2. On August 7, 2014, the agency processed an application for BC+ benefits submitted by the Petitioner. On August 8, 2014, the agency issued a Notice of Decision to the Petitioner informing

him that he was eligible for BC+ benefits effective July 1, 2014 with no monthly premium. The notice also informed him that he must report to the agency by the 10th day of the next month if his gross monthly household income exceeded \$972.50.

3. On April 20, 2015, the Petitioner contacted the agency. At that time, he reported new employment with [REDACTED] that started in October, 2014. The agency worker explained reporting requirements and the Petitioner stated that he had believed he only needed to report circumstances annually.
4. On or about April 21, 2016, the agency received actual wage verification from [REDACTED]. Petitioner's actual wages were as follows:

November, 2014	\$2,208
December, 2014	\$1,584
January, 2015	\$2,085.84
February, 2015	\$1,124
5. Petitioner's actual gross household income, including unearned income of \$333.12/month for the relevant period was as follows:

November, 2014	\$2,541.12
December, 2014	\$1,917.12
January, 2015	\$2,418.96
February, 2015	\$1,457.12
6. On May 13, 2016, the agency issued a Wisconsin Medicaid and BadgerCare Plus Overpayment Notice to the Petitioner informing him that the agency intends to recover an overissuance of BC+ benefits in the amount of \$658 for the period of January 1, 2015 – February 28, 2015 due to a member error in not reporting when income exceeded the reporting requirements. The overissuance represents the net capitation rate that the agency paid on behalf of the Petitioner for insurance coverage for the period.
7. On May 26, 2016, the Petitioner filed an appeal with the Division of Hearings and Appeals.

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 BC+ Handbook, § 28.2. The overpayment must be caused by the client's error. Overpayments caused by agency error are not recoverable. If the overpayment is caused by the failure to report income accurately, the claim will be the amount of the premium that would have been paid had the income been reported correctly. If the household would have been over even the premium limit, the overpayment would be all MA payments made on the household's behalf. See Handbook, § 28.4.2.

At the hearing, the Petitioner did not dispute the agency's income figures. He did dispute that he had not reported his new job to the agency in a timely manner. Specifically, he testified that he believed that he had called the Central Document Processing Unit on or about the day that he started his new job on October 23, 2014. He stated that he knew from a previous mistake that he was required to report.

The agency submitted the case comments for the Petitioner's case. The agency workers are supposed to document any contacts with the Petitioner in the comments. There is no indication in the comments that Petitioner had any contact with the agency between the end of August, 2014 and April, 2015 when the agency documents that the Petitioner reported his employment at [REDACTED]. It is possible that there was an error in not documenting Petitioner's call in October, 2014 but without any evidence to support the Petitioner's assertion, I must conclude that the evidence does not support that contact was made.

I reviewed the agency's overpayment calculation. The Petitioner's income went over the income limit in November, 2014. He was required to report this by December, 2014. This would have impacted his benefits starting in January, 2015. The agency properly determined the overpayment period as January and February, 2015. The agency submitted a report showing that the agency paid \$658 for Petitioner's BC+ insurance coverage during that period when he was not eligible for BC+ benefits. There were no claims paid during that period.

Based on the evidence submitted, I conclude that the agency properly seeks to recover an overissuance of BC+ benefits to the Petitioner in the amount of \$658 for the period of January 1, 2015 – February 28, 2015.

CONCLUSIONS OF LAW

The agency properly seeks to recover an overissuance of BC+ benefits to the Petitioner in the amount of \$658 for the period of January 1, 2015 – February 28, 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 19th 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 19, 2016.

Waupaca County Department of Social Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability