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[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: MOP - 175352

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on July 2, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Kenosha County Human Service Department regarding Medical Assistance (MA), a hearing was held on August 9, 2016, by telephone.

The issue for determination is whether the agency properly seeks to recover an overissuance of Medical Assistance benefits in the amount of \$1,529.73 from the Petitioner for the period of December, 2015 – April, 2016 due to a failure to report income exceeding the program limits.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, WI 53703

By: [REDACTED]  
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 # [REDACTED]) is a resident of Kenosha County.

2. On August 28, 2015, the Petitioner applied for Medicaid. He reported no employment and no income.
3. On August 31, 2015, the agency issued a Notice of Decision to the Petitioner informing him that he was approved to receive Medicaid benefits effective August 1, 2015 with no monthly premium. The notice further informed the Petitioner of the requirement to report to the agency by the 10<sup>th</sup> day of the next month if his gross monthly income exceeded \$980.83.
4. On or about September 29, 2015, the Petitioner started employment at [REDACTED]
5. In May, 2016, the agency received a wage discrepancy alert regarding the Petitioner. On or about May 6, 2016, the agency received information about Petitioner's employment at [REDACTED] including his gross monthly wages, reported as follows:

October, 2015	\$1,544.40
November, 2015	\$2,529.66
December, 2015	\$5,504.41
January, 2016	\$2,237.10
February, 2016	\$2,165.44
March, 2016	\$1,935.34
April, 2016	\$1,350.58
6. On June 22, 2016, the agency issued Medicaid Overpayment Notices and worksheet to the Petitioner informing him that the agency intends to recover an overissuance of Medicaid benefits in the amount of \$1,529.73 for the period of December 1, 2015 – April 30, 2016 due to failure to report income exceeding the reporting requirement.
7. On July 2, 2016, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### DISCUSSION

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).

MA recipients are required to report to the agency if their income exceeds the eligibility limit which is 100% of the Federal Poverty Level (FPL). In October, 2015, 100% of the FPL was \$980.83 for a

household size of one. Petitioner was advised in the Notice of Decision dated August 31, 2015 of the requirement to report if his monthly income exceeded this limit by the 10<sup>th</sup> day of the next month. Petitioner's income in October, 2015 exceeded the limit. He was required to report this to the agency by November 10, 2015. This would have impacted his benefits beginning December 1, 2015. Because the Petitioner did not report his income to the agency, the agency continued to pay a capitation fee for the Petitioner's insurance coverage when he was no longer eligible for the benefits. The agency seeks to recover the capitation rate for the months of December 1, 2015 – April 30, 2016.

At the hearing, the Petitioner did not dispute the income information. He testified that he probably receive the August 31, 2015 notice but did not specifically recall it and did not recall reading about the reporting requirements. He had never received MA benefits and was unaware of the requirements.

I note that the agency does not allege that the Petitioner intentionally failed to report his income and I do not find evidence of the Petitioner intentionally not reporting. However, the agency is required to recover any overissuances of benefits even if it was not an intentional error on the part of a recipient.

Based on the evidence presented, I find that the evidence demonstrates that the Petitioner's income exceeded the program limits in October, 2015 and that the agency properly established an overpayment period beginning December 1, 2015. The agency produced evidence of the capitation rates paid for the Petitioner during the overpayment period which continued through April 30, 2016. I conclude that the agency is authorized to recover an overissuance of \$1,529.73 from the Petitioner for an overissuance of Medicaid benefits for the period of December 1, 2015 – April 30, 2016.

### **CONCLUSIONS OF LAW**

The agency is authorized to recover an overissuance of \$1,529.73 from the Petitioner for an overissuance of Medicaid benefits for the period of December 1, 2015 – April 30, 2016.

**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 20th day of September, 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 September 20, 2016.

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