



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MOP - 175457

PRELIMINARY RECITALS

Pursuant to a petition filed on July 9, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Rock Cty. Dept. of Social Services regarding Medical Assistance (MA), a hearing was held on August 16, 2016, by telephone.

The issue for determination is whether the agency correctly assessed a BadgerCare (BC) Plus overpayment in the amount of \$3,172.76 for the period of June 1, 2015 through December 31, 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]
Rock Cty. Dept. of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The Petitioner (CARES # [REDACTED]) is a resident of Walworth County. He is the only person in his BadgerCare (BC) Plus household.

2. The petitioner received BC Plus benefits February 1, 2015 through December 31, 2015.
3. On March 2, 2015 the agency sent the petitioner a notice stating that he had applied for BC Plus benefits on February 25, 2015, and that he would receive those benefits effective February 1, 2015. The notice went on to inform the petitioner that if his total monthly income before taxes went over \$980.83, he had to report this income by the 10th day of the following month.
4. The petitioner started a job at [REDACTED] on March 16, 2015. His monthly gross income in April 2015 was \$4,073.50. The petitioner never reported this job or income to the agency. The petitioner's monthly income during the overpayment period was as follows:
 - a. June 2015 – \$5,045
 - b. July 2015 - \$6,720
 - c. August 2015 – \$6,530
 - d. September 2015 – \$6,180
 - e. October 2015 - \$11,368.75
 - f. November 2015 – \$7,456.54
 - g. December 2015 - \$7,456.54
5. The petitioner received BC Plus benefits from June 1, 2015 through December 31, 2015. The agency paid a total of \$3,172.76 for these benefits during this overpayment time period. The petitioner stopped receiving benefit December 31, 2015 because a renewal would have been due at that time, and he never completed that renewal.
6. The agency received a State Wage match at the end of 2015 showing the petitioner had quarterly income from [REDACTED]. They then referred the case for an overpayment determining the petitioner's actual wages and the amount paid for his BC Plus benefits.
7. On May 23, 2016 the agency sent the petitioner a notice stating that he was overpaid \$3,172.76 in BC Plus benefits for the period of June 1, 2015 through December 31, 2015
8. On July 3, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

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 MA Handbook, Appendix 6.2.1.1. The overpayment must be caused by the client's error. Overpayments caused by agency error are not recoverable.

Under BC+ rules the income limit for childless adult is 100% of the poverty level. BC+ Handbook, Appendix 16.1.1. That amount for a one-person household at the time of this overpayment was \$980.83. BC+ Handbook, App. 50.1. The notices sent to BC Plus recipients reflect the eligibility limits in the reporting requirements. A childless adult must report when his or her monthly household gross income exceeds 100% of the poverty level, which is \$980.83 for a household of one. BC+ Handbook, App. 27.3.

The agency sent the petitioner a notice stating that he would receive BC Plus benefits effective February 1, 2015. The notice further stated that he would have to report when his income exceeded \$980.83. The petitioner's income exceeded this reporting requirement in April 2015. He had until May 10, 2015 to report his income. Had he timely reported his income, his BC Plus benefits would have closed effective June 1, 2015. Because the petitioner failed to report his increase in income, he received BC Plus benefits that he was ineligible for from June 1, 2015 through December 31, 2015. During this period his monthly income always exceeded \$5,000, and one month even exceeded \$11,000.

The petitioner argued that he never used his BC Plus benefits from June 1, 2015 through December 31, 2015. He testified that he had insurance through his employer. I have no doubt that the petitioner had insurance through his employer. The problem is that he was also carrying BC Plus insurance. During this time period BC Plus paid the net capitation, which is the cost of keeping the insurance and between \$1,200 and \$1,300 to medical providers. At least one of the petitioner's providers billed the BC Plus program for services. The petitioner may contact his medical providers and ask them to bill his insurance through his employer, and refund the BC Plus program. If that occurs it would reduce the amount the petitioner owes for this overpayment.

CONCLUSIONS OF LAW

The agency correctly assessed a BadgerCare (BC) Plus overpayment in the amount of \$3,172.76 for the period of June 1, 2015 through December 31, 2015.

THEREFORE, it is

ORDERED

That the petition 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 24th day of August, 2016

\s _____
Corinne Balter
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 24, 2016.

Rock Cty. Dept. of Social Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability