



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

MAC/143887

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 14, 2012, under Wis. Stat., §49.497(1m)(a), to review a decision by the Public Assistance Collection Unit to compel payment of a Medical Assistance (MA) claim, a hearing was held on October 31, 2012, by telephone.

The issue for determination is whether the PACU can compel payment of a public assistance debt.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703

By: Sandra Waugus  
Marinette County Dept. of Human Services  
1605 University Drive  
Marinette, WI 54143

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Marinette County.
2. On January 3, 2012, the agency informed petitioner that his household had been overpaid a total of \$8,086.26 in MA from September 1 through November 30, 2011, claim nos. [REDACTED], [REDACTED], and [REDACTED].
3. Petitioner appealed that notice on February 21, 2012. In a decision dated April 3, 2012, case no. FOP-138989, the Division of Hearings and Appeals concluded that the appeal was untimely, thus upholding the overpayment claim.

4. On August 17, 2012, the PACU sent petitioner a notice or an Order to Compel Payment of the claim.

### DISCUSSION

Wis. Stat., §49.497(1m)(a) provides that if, after notice of incorrect payment is made, a recipient who is liable for an incorrect payment fails to repay the incorrect payment or enter into, or comply with, an agreement for repayment than the State of Wisconsin may bring an action to enforce the liability or may issue an order to compel payment of the liability. In this case the department has issued an order to compel payment of the liability. Petitioner can appeal, but according to the law the only issues that can be addressed are whether he paid off the overpayment, or whether he has entered into a repayment agreement and complied with it.

Petitioner filed this appeal to contest whether he owes the money at all. According the Wisconsin statute that the Division of Hearings and Appeals does not have authority to contradict, I cannot reach the merits of overpayment claim. The issues in a case such as this one are limited as described above. Thus I must conclude that the PACU correctly issued an Order to Compel for the amount due.

### CONCLUSIONS OF LAW

The PACU correctly issued an Order to Compel Payment of Liability for a 2011 MA overpayment.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and the same is hereby dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson

Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,  
Wisconsin, this 2nd day of November, 2012

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Brian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin \DIVISION OF HEARINGS AND APPEALS**

David H. Schwarz  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on November 2, 2012.

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