



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

MOP/143892

PRELIMINARY RECITALS

Pursuant to a petition filed September 14, 2012, under Wis. Stat., §49.45(5), to review a decision by the Marinette County Dept. of Human Services to recover Medical Assistance (MA), a hearing was held on October 31, 2012, by telephone.

The issue for determination is whether petitioner was overpaid MA due to failing to report a job.

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. Petitioner received BadgerCare Plus (BC+) MA in 2012. On July 30, 2012, petitioner reported that he had been working at a job since approximately May, 2012. The agency then obtained verification of the income from the job.
3. The agency found that petitioner had been working at the job since April 16, 2012. When the agency retrospectively budgeted income from the job, it determined that petitioner would have

been required to pay BC+ premiums in July and August, 2012 based upon actual household income.

4. By a notice dated September 14, 2012, the agency informed petitioner that he was overpaid \$278 in BC+ in those two months, that being the amount of premiums that he would have owed, claim no. [REDACTED]

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, Appendix 28.2. The overpayment must be caused by the client's error. Overpayments caused by agency error are not recoverable.

The Handbook, App. 28.4.2 describes the procedure for determining a BC+ overpayment:

Use the actual income that was reported or required to be reported in determining if an overpayment has occurred

If the case is still eligible for BC+ for the timeframe in question, but there was an increase in the premium, recover the difference between the premiums paid and the amount owed for each month in question. To determine the difference, determine the premium amount owed and view the premium amount paid on *CARES* screen AGPT.

The overpayment amount is the difference between the premium paid and premium owed even if the premium that was paid was \$0.

In this case petitioner failed to report new income timely. Had he done so he would have had to pay BC+ premiums in July and August, 2012. I conclude that the agency's determination was correct.

CONCLUSIONS OF LAW

Petitioner was overpaid BC+ in July and August, 2012 because he did not report a new job timely.

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

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
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