



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

MOP/144488

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 17, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Burnett County Department of Social Services in regard to Medical Assistance, a hearing was held on November 27, 2012, at Siren, Wisconsin.

The issue for determination is whether the petitioner must repay an alleged overpayment of medical assistance.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

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

By: Carolyn Carroll

Burnett County Department of Social Services  
7410 County Road K, #280  
Siren, WI 54872

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien

Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Burnett County.
2. The petitioner lives with boyfriend. They have at least one child in common.

3. The county agency alleges that the petitioner received \$1,815 more in Medicaid than she was entitled to from May through August 2012 because she failed to report her boyfriend's income to the agency.
4. The petitioner's boyfriend told the agency that he had returned to work two days after doing so.

### 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).

Recipients must report any change of income that affects their benefits to the agency by the 10<sup>th</sup> day of the month following the change. *BadgerCare Plus Eligibility Handbook*, § 27.3.

The county agency seeks to recover \$1,815 in Medicaid provided to the petitioner from May through August 2012 because it alleges that she failed to report her boyfriend's income to the agency. The petitioner contends that he called the agency two days after returning to work. He testified and sounded credible; he had the phone number of the agency on his cell phone as evidence. The person he stated that he called did not testify, so there is no first-hand contradictory evidence. Based upon this, I find that he reported the change to the agency. Therefore, the agency may not recover the medical assistance benefits provided to the petitioner's household during the period in question.

### CONCLUSIONS OF LAW

The county agency may not recover any overpayment of medical assistance received by the petitioner from May 1, 2012, through August 31, 2012, because her boyfriend reported the change of income that was the basis of the overpayment to the county agency on time.

### **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 12th day of December, 2012

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\sMichael D. O'Brien  
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 December 12, 2012.

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