



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

MAC/143802

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 11, 2012, under Wis. Stat. § 49.497(1m)(a), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance, a hearing was held on December 4, 2012, at Racine, Wisconsin.

The issue for determination is whether the agency properly issued an order to compel payment of an overpayment of medical assistance benefits.

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: Kathy Christman, Lead FEP  
Racine County Department of Human Services  
1717 Taylor Ave  
Racine, WI 53403-2497

**ADMINISTRATIVE LAW JUDGE:**

Michael A. Greene  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. On November 2, 2011, the agency sent petitioner a Notice and Repayment Agreement for Medical Assistance/BadgerCare/BadgerCare Plus Overpayment stating its intention to recover an overpayment of Medical Assistance benefits in the amount of \$770.85 (Exhibit 1). The Notice

also explained petitioner’s right to file for a fair hearing to contest the liability and amount of the overpayment. Petitioner filed for a fair hearing, but abandoned the appeal when he did not appear for the hearing, DHA Case No. MOP/139029.

- 3. The agency sent petitioner dunning notices on the overpayment on December 2, 2011 (Exhibit 2), January 3, 2012 (Exhibit 3) and February 2, 2012 (Exhibit 4).
- 4. On August 17, 2012, the agency sent petitioner a Notice of Administrative Action (Exhibit 5) and an Order to Compel Payment requiring repayment of the overpayment (Exhibit 6).

**DISCUSSION**

Wis. Stat. §49.497 sets out the process by which incorrect medical assistance payments may be recovered. In particular, Wis. Stat. §49.497(1m)(a) provides

If, after notice that an incorrect payment was made, a recipient, or parent of a minor recipient, who is liable for repayment of an incorrect payment fails to repay the incorrect payment or enter into, or comply with, an agreement for repayment, the department may bring an action to enforce the liability or may issue an order to compel payment of the liability.

Wis. Stat. §49.497(1m)(a) also provides that the recipient may request a hearing but that the issues at hearing are limited to the department’s determination that the person has not repaid the overpayment or entered into or complied with the repayment agreement.

In the present case, there was no dispute that the requisite notices had been sent to petitioner and that petitioner had not completed and returned the repayment agreement. By statute, this is the only issue that I can examine under these circumstances. The petitioner was correctly notified of the incorrect payment and has not entered into or complied with a repayment agreement. Thus, the order to compel payment was properly issued.

**CONCLUSIONS OF LAW**

Where the agency sent the requisite notices and petitioner failed to repay or enter into a repayment agreement for incorrect medical assistance payments, the agency’s order to compel payment was proper.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and hereby is 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 Milwaukee,  
Wisconsin, this 18th day of January, 2013

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\sMichael A. Greene  
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 January 18, 2013.

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