



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

MOP/146197

PRELIMINARY RECITALS

Pursuant to a petition filed December 24, 2012, under Wis. Stat., §49.45(5), to review a decision by the Northern Income Maintenance Consortium to recover Medical Assistance (MA), a hearing was held on February 19, 2013, by telephone.

The issue for determination is whether petitioner was overpaid MA because he did not report that his daughter had moved out of the home.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Beulah Garcia
Northern IM Consortium
10610 Main St., Suite 224
Hayward, WI 54843

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Lincoln County.
2. Petitioner has been eligible for BadgerCare Plus (BC+) MA since prior to 2010. One of petitioner's children moved out of the home in June, 2012, but petitioner did not report the move until a review in September, 2012.
3. The agency determined that if petitioner had reported the move timely, the household would have been required to pay a BC+ premium of \$95 beginning August 1, 2012.

4. By a notice dated November 28, 2012, the agency informed petitioner that he was overpaid \$190 in MA in August and September, 2012 because he did not report a change in his household size timely, claim no. [REDACTED]. The overpayment consisted of two months of BC+ premiums.

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. If the case is still eligible for BC+ for the timeframe in question, but there was an increase in the premium, the overpayment is the difference between the premiums paid and the amount owed for each month in question. Handbook, App. 28.4.2.

Petitioner received BC+ in August and September, 2012 with no premium. Had his daughter's absence been reported timely there would have been a \$95 premium each month because of the smaller household size. Petitioner did not dispute the error, and thus I will find that the overpayment was determined correctly (petitioner did dispute a substantially larger FoodShare overpayment resulting from different circumstances; that dispute will be handled in a separate decision).

CONCLUSIONS OF LAW

The agency correctly determined a BC+ overpayment caused by the failure to report a household member moving out in June, 2012.

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 25th day of February, 2013

\sBrian C. Schneider
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 February 25, 2013.

Wood County Human Services - WI Rapids
Public Assistance Collection Unit
Division of Health Care Access and Accountability