



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/147604

PRELIMINARY RECITALS

Pursuant to a petition filed February 19, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Oconto County Department of Health and Human Services ["County"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on May 22, 2013. At petitioner's request Hearings scheduled April 25, 2013 and March 27, 2013 were rescheduled. A Hearing scheduled for April 24, 2013 was also rescheduled. This matter was heard at the same time as the following closely related matter concerning petitioner's spouse: MOP/147602.

The issue for determination is whether the following 2 claims can be established against petitioner for overpayments of MA during the time period October 2012 to January 2013 in the total amount of \$1,243.68:

- (I) Claim # [REDACTED] in the amount of \$1,009.67; and,
- (II) Claim # [REDACTED] in the amount of \$234.07.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Marylou Lemke, ESS

Oconto County Department of Health And Human Services
501 Park Avenue
Oconto, WI 54153-1612

OTHER PERSONS PRESENT:

[REDACTED], petitioner's wife
Kimberly J. Reifsteck, Fraud Investigator

ADMINISTRATIVE LAW JUDGE:
Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is now a resident of the State of California but previously was a resident of the State of Wisconsin. Exhibits #1 & #2.
2. The County established the following 2 claims against petitioner for overpayments of MA during the time period October 2012 to January 2013 in the total amount of \$1,243.68:
Claim # [REDACTED] in the amount of \$1,009.67; and,
Claim # [REDACTED] in the amount of \$234.07.

Exhibit #2.
3. The MA overpayment claims detailed in *Finding of Fact #2*, above, resulted from client error because petitioner failed to report that he moved from the State of Wisconsin to the State of California in August 2012; the amount of the claims is the capitation rate paid by MA for the time period of the overpayment. Exhibits #1 & #2.

DISCUSSION

An overpayment of MA benefits may be recovered only in the following 3 circumstances:

- A. A misstatement or omission of fact by a person supplying information in an application for benefits;
- B. The failure of an MA or BadgerCare 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; or,
- C. The failure of an MA or BadgerCare 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)(a) (2011-12); Wis. Admin. Code § DHS 108.03(3)(b) (May 2010); See also, *Badger Care + Eligibility Handbook* ["BC+EH"] 28.1.; *Medicaid Eligibility Handbook* ["MEH"] 22.2.1; BEM/DWS Operations Memo, No: 05-39, Date: 09/29/2005; and, BEM/DWS Operations Memo, No: 06-10, Date: 02/09/2006.

Petitioner does not dispute that he failed to report that he moved from the State of Wisconsin to the State of California in August 2012. Therefore, the overpayments were properly established against petitioner.

Petitioner's wife received an *About Your Benefits* letter notice dated July 18, 2012 stating that her Food Stamps ["FS"] were ending on August 1, 2012. Exhibit #3a. Petitioner argues that he was confused and thought that both the FS and MA were ending. This is unfortunate but does not change the fact that petitioner failed to report his move from Wisconsin to California. Further, the July 18th *About Your Benefits* letter notice also stated that there have been no changes in health care benefits.

Petitioner also argues that he thought the fact that his wife did fill-out and return a Six-Month Report Form ["SMRF"] would signal the County that MA should end. However, the SMRF is for FS, not MA. Further, the law, as detailed above, requires petitioner to affirmatively report a move to the County.

Finally, petitioner and his wife testified that their failure to report their move was an honest mistake and they have been paying their own medical bills in California. Exhibits #6a, #6b & #6c. Their testimony was sincere. However, unfortunately, it does not change the fact that they failed to report their move from Wisconsin to California.

CONCLUSIONS OF LAW

For the reasons discussed above, the MA overpayments detailed in *Finding of Fact #2*, above, may be established against petitioner.

NOW, 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 7th day of June, 2013

\sSean P. Maloney
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 June 7, 2013.

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