



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MOP/147747

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 27, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Brown County Human Services ["County"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on March 25, 2013.

The issue for determination is whether the following Claim may be established against petitioner for alleged overpayments of BadgerCare Plus MA ["BC+"]: Claim # [REDACTED]; November 1, 2012 to January 31, 2013; in the total amount of \$247.00.

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: Katie Budzis, ESS  
Brown County Human Services  
Economic Support-2nd Floor  
111 N. Jefferson St.  
Green Bay, WI 54301

**OTHER PERSON PRESENT:**

Diane Van Asten, Fraud Investigator Aid

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.
2. The County established the following Claim against petitioner for alleged overpayments of BC+: Claim # [REDACTED]; November 1, 2012 to January 31, 2013; in the total amount of \$247.00.
3. On September 9, 2012 petitioner applied for BC+ using an online *ACCESS* application.
4. On September 10, 2012 petitioner's online *ACCESS* application was processed.
5. In September 2013, after she applied for BC+, petitioner's income increased due to a new job; this increased income was enough to cause petitioner's BC+ premium to increase.
6. Petitioner received a telephone call concerning her online *ACCESS* application because she had missed a question and, in conjunction with that telephone call, petitioner reported that she had a new job and increased income but was told to report this at her next 6-month review.
7. Petitioner's BC+ premium was not increased because petitioner's new job and increased income were not taken into account; this resulted in the alleged overpayment Claim in *Findings of Fact* #2, above.

**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.

In this case petitioner reported her new job and increased income. Petitioner's testimony in this regard is credible. Petitioner's testimony is consistent with a February 22, 2013 computer *Case comments*. The County has offered nothing to rebut petitioner's testimony. Therefore, the following Claim may not be established against petitioner for alleged overpayments of BC+: Claim # [REDACTED]; November 1, 2012 to January 31, 2013; in the total amount of \$247.00.

**CONCLUSIONS OF LAW**

For the reasons discussed above, the following Claim may not be established against petitioner for alleged overpayments of BC+: Claim # [REDACTED]; November 1, 2012 to January 31, 2013; in the total amount of \$247.00.

**THEREFORE, it is**

**ORDERED**

That this matter be REMANDED the County, that the County not establish against petitioner the following Claim for alleged overpayments of BC+: Claim # [REDACTED]; November 1, 2012 to January 31, 2013; in the total amount of \$247.00; and that, within 10 days of the date of this *Decision*, the County send a letter to petitioner stating that this Order has been complied with.

**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 18th day of April, 2013

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\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 April 18, 2013.

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