



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/148709

PRELIMINARY RECITALS

Pursuant to a petition filed April 15, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the PACU - 5173 in regard to Medical Assistance (MA), a telephone hearing was held on May 13, 2013.

The issue for determination is whether petitioner was overpaid MA benefits October 1, 2012, through February 28, 2013.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Christine DeBlair
PACU - 5173
P.O. Box 8939
Madison, WI 53708-8938

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Florida.
2. The petitioner was an ongoing medical assistance recipient in Wisconsin when she moved to Florida. She did not notify the Wisconsin Medical Assistance Program that she was moving to Florida.

3. The petitioner applied for Medical Assistance in Florida on August 6, 2012.
4. The Wisconsin Medical Assistance program spent \$1,810.96 from October 1, 2012, through February 28, 2013, to provide medical assistance benefits to the petitioner.

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).

The petitioner testified that she always understood that her MA benefits were approved on a year-to-year basis; i.e., if she did not renew and resubmit proof of income annually, her benefits would be closed. While she lived in Wisconsin, commencing in 2009 she received medical assistance benefits, which she admits that she failed to end before leaving the State. She stated that she assumed that the benefits would end when she did not renew them in September.

The Department subsequently discovered that petitioner applied for MA benefits in Florida on August 6, 2012, when it received notification of the application via the Public Assistance Reorting Informaiton System. The Department seeks to recover the \$1,810.96 it paid on her behalf for her household medical assistance benefits from October 1, 2012, through February 28, 2013.

The petitioner testified that she did not report her change in address because she expected her benefits to automatically end in September of 2012. While I do not doubt that the error here was unintentional, the fact remains that, as a beneficiary of public assistance, petitioner was required to report that she was moving out of state.

The Department must prove by the greater weight of the credible evidence that it is entitled to recover the alleged overpayment of medical assistance. This is a fairly low burden that requires only that the agency show that it is more likely than not both that (1) the petitioner received more benefits than she was entitled to and (2) that she did not properly report to the State of Wisconsin that she no longer lived here. She concedes the first point and the Department has provided more than enough evidence to prove the second point. Therefore, the Department properly seeks to recover the overpayment.

CONCLUSIONS OF LAW

The petitioner must repay the overpayment of medical assistance that occurred from October 1, 2012, through February 28, 2013, because she failed to report that she no longer lived in Wisconsin.

THEREFORE, it is

ORDERED

The petitioner's appeal 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 Madison,
Wisconsin, this 3rd day of July, 2013

\sPeter McCombs
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 July 3, 2013.

PACU - 5173
Public Assistance Collection Unit
Division of Health Care Access and Accountability