



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/150307

PRELIMINARY RECITALS

Pursuant to a petition filed June 26, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Sauk County Department of Human Services in regard to Medical Assistance, a telephone hearing was held on August 06, 2013, at Baraboo, Wisconsin. At the request of the petitioner, the record was held open for a period of 10 days to allow petitioner and respondent time to submit further documentation. Said documentation was timely received.

The issue for determination is whether the respondent correctly established an overpayment of Medical Assistance (MA) benefits to the petitioner in the amount of \$962.00 from November, 2012 through June 2013 (Claim No. [REDACTED]).

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Jatinder Singh

Sauk County Department of Human Services
505 Broadway, 4th Floor
PO Box 29
Baraboo, WI 53913

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sauk County.
2. Petitioner is a member of an MA assistance group of four.
3. On June 15, 2013, respondent notified petitioner that it had established an overpayment of MA benefits to petitioner in the amount of \$962.00 from November, 2012 through June 2013.
4. Petitioner timely appealed from that notice on June 26, 2013.

DISCUSSION

BadgerCare Plus provides medical assistance coverage to children under 19 and their parents or caretakers. Wis. Stat. § 49.471; *BadgerCare Plus Eligibility Handbook*, § 2.1. Unless they are pregnant, adults are ineligible if their household income exceeds 200% of the federal poverty limit. Wis. Stat. § 49.471(4)(a). Adults must pay a premium if their household income exceeds 150% of the federal poverty level; a premium must be paid on behalf of children if the household income exceeds 200% of the federal poverty level. Wis. Stat. § 49.271(1)(b). Recipients must report any change of income that affects their benefits to the agency by the 10th day of the month following the change. *BadgerCare Plus Eligibility Handbook*, §27.3. Two hundred percent of the federal poverty level for a four-person household was \$3,841.66 in November 2012, and rose to \$3,925.00 as of March 1, 2013. *BadgerCare Plus Eligibility Handbook*, § 50.1.

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, §28.2. The overpayment must be caused by the client's error. Overpayments caused by agency error are not recoverable.

In the instant case, the central issue is whether the respondent has correctly determined/calculated the overpayment at issue. The respondent apparently attempted to electronically submit its exhibits, but was unsuccessful; documentation submitted post-hearing provided a minimal amount of substantiation of the overpayment calculations. The petitioner claims that he provided respondent with actual income figures previously. The respondent conceded that the overpayment was based upon average income derived from quarterly wage information. The petitioner provided actual income information at hearing, and verification of that information post-hearing, while this record was held open. I will remand this matter to

the respondent to review and re-determine the overpayment, if any, based upon petitioner's actual monthly household income.

CONCLUSIONS OF LAW

Respondent did not use actual monthly household income to establish the alleged overpayment (Claim No. [REDACTED]).

THEREFORE, it is ORDERED

That this matter (Claim No. [REDACTED]) shall be remanded to the respondent to review and re-determine whether an overpayment occurred and, if so, the amount of that overpayment based upon petitioner's actual monthly income. After the review and re-determination, respondent shall provide written notice to the petitioner, including new appeal rights. All actions required under this Order shall be completed within 10 days following issuance of this Decision.

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 September, 2013

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

Wayne ■ Wiedenhoef, Acting Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 3, 2013.

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