



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/152697

PRELIMINARY RECITALS

Pursuant to a petition filed October 10, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Wood County Human Services - WI Rapids in regard to Medical Assistance, a hearing was held on December 19, 2013, at Ladysmith, Wisconsin. A hearing begun on November 20, 2013, was continued because the agency did not have the most recent calculation of the alleged overpayment.

The issue for determination is whether the petitioner must repay an alleged overpayment of medical assistance.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Beulah Garcia

Wood County Human Services - WI Rapids
320 West Grand Avenue
PO Box 8095
Wisconsin Rapids, WI 54495-8095

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Rusk County.

2. The Department seeks to recover \$4,410 in medical assistance provided to the petitioner from July 2012 through June 2013.
3. The petitioner notified the Call Center in Janesville of a change in her husband's employment in June 2012. The next month she called and said her husband would be earning a commission. She was told to wait to send in commission statements until her next review.

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).

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.

The Department contends that the petitioner received a \$4,410 overpayment of medical assistance from July 2012 through June 2013 because she failed to report income from her husband's employment. He began working for [REDACTED] [REDACTED] around June 2012. At first he received an hourly wage, but that was replaced by a commission in July 2012. His income from the commissions was considerably higher than from an hourly wage. The petitioner does not deny that her husband's income was higher; rather she contends that she notified the Call Center in July 2012 that her husband was earning a commission and was told to wait until her next review to submit commission statements because it would be too confusing to submit constant changes of income.

The worker at the Call Center did not testify or submit any statement for the hearing. This means that the only evidence I have of what the petitioner tried to submit to the Call Center is her testimony. That testimony is credible. The Call Center's own documentation indicates that she called in July 2012. This means that she notified the center immediately when her husband got a job in June and again a month later when the way he was paid changed. This shows that she was diligent about reporting all information to the Department's agent and supports her credibility. From this, I find that she did all she could to report a change of income to her Department and that any overpayment that occurred happened because the Call Center failed to act on this reports. Therefore, the Department cannot recover the overpayment of medical assistance benefits that allegedly occurred from July 2012 through June 2013.

CONCLUSIONS OF LAW

The Department cannot recover a \$4,410 overpayment of medical assistance benefits that allegedly occurred from July 2012 through June 2013 because the petitioner reported her husband's change of income to the Department's authorized representative.

THEREFORE, it is

ORDERED

That this matter is remanded to the county agency with instructions that within 10 days of the date of this decision it take all steps necessary to remove the finding from the petitioner's record that she was overpaid \$4,410 in medical assistance from July 2012 through June 2013 and that it end all attempts to recover the alleged overpayment. In addition, the agency shall take all steps necessary to reimburse the petitioner for any portion of the alleged overpayment that it has already recovered.

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, Room 651, 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 8th day of January, 2014

\sMichael D. O'Brien
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 January 8, 2014.

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