



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/153143

PRELIMINARY RECITALS

Pursuant to a petition filed October 26, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Public Assistance Collection Unit in regard to Medical Assistance (MA), a hearing was held on February 18, 2014, at Racine, Wisconsin.

The issue for determination is whether the agency properly seeks to recoup an overissuance of MA benefits in the amount of \$373.68 from the Petitioner for the period of January 1, 2013 – February 28, 2013.

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: Diane Peterson
Public Assistance Collection Unit
P.O. Box 8939
Madison, WI 53708-8938

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. On October 22, 2012, Petitioner submitted a renewal for MA. On October 23, 2012, the agency issued a Notice of Decision informing the Petitioner that her daughter was approved for BC+

coverage effective December 1, 2012. It further informed the Petitioner that she and the other adult member of her household were not approved for BC+. In addition, the notice informed the Petitioner that she must report within 10 days if there is a change in where she lives or stays.

3. In November, 2012, the Petitioner and her daughter moved to Minnesota. On November 26, 2012, the Petitioner applied for public assistance in Minnesota.
4. The agency paid the following capitation amounts for the Petitioner's daughter for January and February, 2013:

01/04/2013	\$306.35
01/04/2013	\$ 2.88
02/01/2013	\$ 61.57
02/01/2013	\$ 2.88
Total	\$373.68
5. On January 14, 2013, the agency issued a notice of renewal due for BC+. The notice informed the Petitioner that the renewal needed to be completed by February 28, 2013. Petitioner did not complete the renewal and the case was closed on February 28, 2013.
6. In September, 2013, the agency was informed of an interstate match for the Petitioner with the State of Minnesota.
7. On September 17, 2013, the agency issued a Medicaid/Badgercare Overpayment Notice to the Petitioner informing her that the agency intends to recover an overissuance of MA benefits in the amount of \$373.68 for the period of January 1, 2013 – February 28, 2013.
8. On October 26, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

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

A person must be a Wisconsin resident to be eligible for Medicaid. BC+ Handbook § 3.1. Once established, Wisconsin residency is retained until the person notifies states that they no longer intend to reside in Wisconsin or another state determines the person is a resident in that state for Medicaid/Medical Assistance or other information is provided that indicates the person is no longer a resident. BC+ Handbook § 3.5.

BC+ members must report address changes to the agency within 10 days after occurrence. BC+ Handbook § 27.2.

In this case, the Petitioner does not dispute that she moved from Wisconsin in November, 2012. She does not dispute that she did not notify the agency within 10 days of her move to Minnesota. She does not dispute the capitation amount that the agency seeks to recover. The Petitioner requests equitable relief from the overissuance of benefits based on the circumstances surrounding her move to Minnesota. She testified that the move was not planned and that she simply neglected to contact the agency.

I recognize that the circumstances surrounding the Petitioner's move may have been difficult. However, I do not have authority to grant the equitable relief she seeks. The regulations are clear that an address change must be reported within 10 days and that residents of other states are not eligible for Wisconsin benefits. In this case, the Petitioner established an intent to remain a resident of Minnesota on November 26, 2012 when she applied for assistance there. She was required to report this change within 10 days. If she had, the change would have affected the Petitioner's daughter's BC+ benefits beginning in January, 2013. Based on the evidence presented, the agency properly seeks to recover an overissuance of BC+ benefits from the Petitioner in the amount of \$373.68 for the period of January 1, 2013 – February 28, 2013.

CONCLUSIONS OF LAW

The agency properly seeks to recover an overissuance of BC+ benefits from the Petitioner in the amount of \$373.68 for the period of January 1, 2013 – February 28, 2013.

THEREFORE, it is ORDERED

That 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, 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 Milwaukee,
Wisconsin, this 19th day of March, 2014

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, 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 March 19, 2014.

Public Assistance Collection Unit
Public Assistance Collection Unit
Division of Health Care Access and Accountability