



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/153686

PRELIMINARY RECITALS

Pursuant to a petition filed November 22, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on January 07, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner was overpaid \$2851.01 in Medicaid benefits for the period of August 1, 2012 through May 31, 2013 by failing to report an increase in household income.

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: Katherine May
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner was sent two Medicaid/BadgerCare overpayment notices, both dated October 16, 2013, that informed Petitioner that she was overissued Medicaid benefits in the total amount of

\$2850.00 for the period from August 1, 2012 through May 31, 2013. The worksheets accompanying the notices actually show a total overpayment of \$2851.01.

3. The overpayment here consists of \$975.30 for premiums that should have been paid for children had income been reported correctly and for \$1875.71 premiums paid by the State government for the adults for periods when there was no BadgerCare+ for the adults eligibility because of income in excess of income limits.
4. A June 11, 2012 Notice of Decision does state that income in excess of \$2115.80 had to be reported to the agency.
5. Petitioner's household size was 4 at all times relevant here – 2 parents and 2 children.
6. Petitioner's household income was in excess of 200% of the Federal Poverty Level for a group of 4 during the months of the overpayment. Total household income in these months ranged from \$7,053 to \$13,263.00. This was not reported.

DISCUSSION

Medicaid 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.

Also see BadgerCare+ Eligibility Handbook (BEH), §28.2.

The overpayment alleged here occurred as Petitioner failed to report increases in household income. The following changes in income must be reported within 10 days of the change:

BadgerCare +members are only required to report income changes when their total monthly gross income exceeds the following percentages of the Federal Poverty Level (FPL) for their group size. The income change must be reported by the 10th of the month, following the month, in which the total income exceeded the following thresholds:

- 100% FPL
- 150% FPL
- 200% FPL
- 250% FPL
- 300% FPL

BEH, §27.3

I note that the income limit for adult BadgerCare+ eligibility is 200% of the Federal Poverty Level (FPL) which was \$3841.67/\$3925.00 for a group of 4. (2012 & 2/2013). *See BEH, §§16.1 and Operations*

Memo #s 12-05 and 13-02. The earned income of all eligible individuals in the household over age 18 is counted. *BEH, §16.4.* Children under age 19 are typically BadgerCare+ eligible but where income is over 200% of the FPL, a premium is due for the children in the group. *BEH, §19.1.*

The agency argues that Petitioner had an obligation to report income and had income been reported as required the household adults would not have been eligible for BadgerCare+ and, while the children would have remained BadgerCare+ eligible, they would have had to pay a premium. Petitioner, on the other hand, argues that the family has not used the BadgerCare+ benefit as they had private insurance and, in fact, the HMO through employer coverage was the same as for the BC+ coverage. She does not believe it is fair to attempt to recover this overpayment.

I am sustaining the agency overpayment determination. Petitioner had to report the income; household income was well over the applicable FPL. A premium was owed for the children and not paid. The government was paying the premium for the adults that it would not have been paying had the household income been reported as required.

CONCLUSIONS OF LAW

That Petitioner was overissued BadgerCare+ in the amount of \$2851.01 for the period from August 1, 2012 through May 31, 2013 for failing to report income changes above reportable Federal Poverty Level percentages which, had the income been reported, would have resulted in adult ineligibility for Medicaid benefits and required a premium for household children.

THEREFORE, it is

ORDERED

That this 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 6th day of February, 2014

\sDavid D. Fleming
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 February 6, 2014.

Milwaukee Enrollment Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability