



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MOP/153997

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 05, 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 [“County”] in regard to Medical Assistance [“MA”], a Hearing was held via telephone on January 22, 2014.

The issue for determination is whether the following 4 Claims can be established against petitioner for alleged MA overpayments in the total amount of \$5,642.43 covering the time period January 1, 2010 to October 31, 2013: Claim # [REDACTED]; Claim # [REDACTED]; Claim # [REDACTED]; and, Claim # [REDACTED].

There appeared at that time via telephone 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, Resolution Coordinator, Northern Consortia  
Wood County Human Services - WI Rapids  
320 West Grand Avenue  
PO Box 8095  
Wisconsin Rapids, WI 54495-8095

**OTHER PERSON PRESENT:**

[REDACTED] [REDACTED], petitioner’s girlfriend & mother of his child

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Wood County.
2. The County established the following 4 Claims against petitioner for alleged MA overpayments in the total amount of \$5,642.43 covering the time period January 1, 2010 to October 31, 2013: Claim # [REDACTED]; Claim # [REDACTED]; Claim # [REDACTED]; and, Claim # [REDACTED]; the original total amount of the overpayments was \$7,089.61 but this amount was adjusted downward after corrections were made.
3. The MA overpayment Claims detailed in *Findings of Fact* #2, above, resulted from County caseworker error; petitioner reported his group correctly by submitting paystubs but the income was not correctly entered into the system.

**DISCUSSION**

An overpayment of MA benefits may be recovered only in the following 3 circumstances:

- A. A misstatement or omission of fact by a person supplying information in an application for benefits;
- B. The failure of an MA or BadgerCare 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; or,
- C. The failure of an MA or BadgerCare 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)(a) (2011-12); Wis. Admin. Code § DHS 108.03(3)(b) (May 2010); See also, *Badger Care + Eligibility Handbook* ["BC+EH"] 28.1.; *Medicaid Eligibility Handbook* ["MEH"] 22.2.1; BEM/DWS Operations Memo, No: 05-39, Date: 09/29/2005; and, BEM/DWS Operations Memo, No: 06-10, Date: 02/09/2006.

In this case the County acknowledges that the overpayments were caused by County caseworker error -- not by petitioner. Therefore, the overpayment Claims cannot be sustained and must be reversed.

**CONCLUSIONS OF LAW**

For the reasons discussed above, the County may not establish the following 4 Claims against petitioner for alleged MA overpayments in the total amount of \$5,642.43 covering the time period January 1, 2010 to October 31, 2013: Claim # [REDACTED]; Claim # [REDACTED]; Claim # [REDACTED]; and, Claim # [REDACTED].

**THEREFORE, it is**

**ORDERED**

That this matter be REMANDED to the County, that, within 10 days of the date of this *Decision*, the County take all necessary steps to REVERSE the following 4 Claims that were established against petitioner for alleged MA overpayments in the total amount of \$5,642.43 covering the time period January 1, 2010 to October 31, 2013: Claim # [REDACTED]; Claim # [REDACTED]; Claim # [REDACTED]; and, Claim # [REDACTED]; the County may not take any action to enforce or collect those 4 Claims.

**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 3rd day of February, 2014

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\sSean P. Maloney  
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 February 3, 2014.

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