



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/154559

PRELIMINARY RECITALS

Pursuant to a petition filed January 02, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Columbia County Health & Human Services in regard to Medical Assistance, a telephonic hearing was held on April 24, 2014, at Baraboo, Wisconsin. At the request of petitioner, hearings set for February 10, 2014 and March 18, 2014 were rescheduled. At the request of the parties, the record was held open for the submission of written closing arguments to the Division of Hearings and Appeals (DHA). The county agency representative, ESS Jessica McBride, sent a May 12, 2014 closing statement to DHA which is marked as Exhibit 5 and received into the hearing record.

The issue for determination is whether there is any remaining issue in dispute regarding petitioner's BadgerCare (BC) Plus overpayment case, as the county agency has stipulated that it is no longer seeking recovery of any BC overpayment from the petitioner.

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: Jessica McBride, ESS
Columbia County Health & Human Services
2652 Murphy Rd
PO Box 136
Portage, WI 53901

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sauk County.
2. The petitioner received FoodShare (FS) benefits for a household of five during the period of September 1, 2012 to April 30, 2013.
3. The petitioner received BadgerCare (BC) benefits for her household during the period of September 1, 2012 to September 30, 2013.
4. The county agency sent a October 4, 2013 Notice of BadgerCare (BC) Overpayment to the petitioner stating that she received an overpayment of \$4,074.06 during the period of September 1, 2012 to September 30, 2013, due to petitioner's alleged failure to report her husband in her household and his income.
5. A hearing was held on April 24, 2014 with the record held open for the submission of closing arguments to the Division of Hearings and Appeals (DHA).
6. The county agency representative, ESS Jessica McBride, sent a May 12, 2014 statement to DHA which is marked as Exhibit 5 and received into the hearing record. The following is that stipulation by the county agency representative:

Our agency has reviewed all facts and evidence provided by the petitioner and by the investigative company Obrien & Associates as well as information used and obtained during the fair hearing held on April 24, 2014. It is our belief that this client has provided factual information regarding her household composition and we believe that the investigative report, provided by Obrien & Associates is inaccurate and contains false information regarding [REDACTED] and her household. No additional evidence will be submitted for this hearing and the county wishes to side with the petitioner and hopes that the administrative law judge will determine a decision for the hearing with the petitioner being found to have no overpayment for FoodShare or BadgerCare Plus based on the evidence or lack thereof provided by Obrien & Associates.

DISCUSSION

Based upon the Stipulation stated in Finding of Fact #6 above, the county agency is basically withdrawing its BC and FS overpayment actions against the petitioner. As a result, the county agency is no longer pursuing the BC overpayment at issue in this case.

CONCLUSIONS OF LAW

There is no longer any remaining issue in dispute regarding petitioner's BadgerCare (BC) overpayment case, as the county agency has stipulated that it is no longer seeking recovery of any BC overpayment from the petitioner for the period of September 1, 2012 to September 30, 2013.

THEREFORE, it is

ORDERED

The matter is remanded to the county agency with instructions to take the necessary administrative action to cancel and rescind the alleged BC overpayment against the petitioner from the period of September 1, 2012 to September 30, 2013, within 10 days of the date of this Decision.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 20th day of June, 2014

\sGary M. Wolkstein
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 June 20, 2014.

Columbia County Health & Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability