



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/154896

PRELIMINARY RECITALS

Pursuant to a petition filed January 18, 2014, 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, a hearing was held on March 10, 2014, at Madison, Wisconsin.

The issue for determination is whether the Department erred in its determination of the MA overpayment for \$2,671.78 in claim numbers [REDACTED] and [REDACTED].

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:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Minnesota. She previously lived in Wisconsin.
2. Petitioner applied for MA on May 17, 2012.

3. Petitioner moved to Minnesota.
4. Petitioner applied for benefits in Minnesota on May 30, 2012.
5. Petitioner never notified her county agency or the Department of Health Services about her move to Minnesota.
6. MA was approved and the program paid \$2,671.78 in capitation payments and provider payments during her enrollment.
7. The Department learned of petitioner change in residence and MA was closed more than one year later on 7/31/13.
8. The Department sent a notice of overpayment on 12/20/13.
9. Petitioner appealed.

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); See also, Medicaid Eligibility Handbook 6.2.1. In this case, the Department argues that petitioner moved from the state without informing the agency or the Department, and that such move out of state would have resulted in ineligibility. The Department argues that the overpayment resulted from the continuation of coverage while petitioner was out of state.

I agree with the Department. Petitioner applied for MA in Wisconsin on May 17, 2012. But, petitioner then applied for public assistance as a Minnesota resident in Fillmore County Minnesota on May 30, 2012 – less than two weeks later. Petitioner did not inform the agency to terminate the processing of her application. This resulted in enrollment that did not terminate until July 31, 2012 after the agency learned of the move to Minnesota.

Petitioner stated vaguely at the time of hearing that she informed “the WIC lady” of her move to Minnesota. But, petitioner’s reporting requirement regarding Medical Assistance are not to the WIC program. The notice mailed to petitioner on June 11, 2012 provides the telephone number to use for reporting changes. Petitioner never did that. Petitioner mentioned that she was out of state and would not have received this notice. It is the responsibility of petitioner to ensure that the agency which administers the public benefits for which she applied, had her correct mailing address. Petitioner should have handled these concerns with more attention.

CONCLUSIONS OF LAW

The Department did not err in determining the MA overpayment for \$2,671.78 in claim numbers [REDACTED] and [REDACTED].

THEREFORE, it is **ORDERED**

That this appeal is dismissed.

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 3rd day of April, 2014

\sJohn P. Tedesco
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 April 3, 2014.

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