FH
[redacted]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[redacted]

DECISION

MOP/155150

PRELIMINARY RECITALS

Pursuant to a petition filed January 28, 2014, under Wis. Stat., §49.45(5), to review a decision by the Northern IM Consortium to recover Medical Assistance (MA), a hearing was held on March 5, 2014, by telephone.

The issue for determination is whether petitioner was overpaid MA when she failed to report a return to work.

PARTIES IN INTEREST:
Petitioner:

[redacted]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Beulah Garcia
Northern IM Consortium
10610 Main St., Suite 224
Hayward, WI 54843

ADMINISTRATIVE LAW JUDGE:
Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES #[redacted]) is a resident of Forest County.
2. Petitioner received BadgerCare Plus (BC+) MA with her husband and four children. In May, 2012, the household filed a six-month report form (SMRF). The report noted that petitioner's husband's unemployment compensation (UC) had ended, but no mention was made of him returning to work. BC+ was granted with no monthly premiums, and the case stayed that way for the next six months.

3. Again in May, 2013, petitioner reported the end of UC but failed to report that her husband had returned to work. BC+ again was granted with no premium.

4. A state wage match found by the agency showed that petitioner's husband had actually earned substantial income during the months in question. When actual income was budgeted, the household would have had to pay BC+ premiums during the months in question.

5. By a notice dated November 20, 2013, the agency informed petitioner that the household was overpaid $1,867 in MA during the period July, 2012 through September, 2013, broken down into claim no. [redacted] ($1,020 for July through December, 2012) and no. [redacted] ($847 for July through September, 2013).

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.

The income and calculations are not disputed. Petitioner testified that she did not understand how to do the on-line SMRF and that she did not intend to leave out her husband's income. That is evident because she made the same mistake in both 2012 and 2013.

I must affirm the agency action to recover the MA. The definition of an overpayment is the receipt of MA that the household was not supposed to receive. In this case the household did not pay BC+ premiums because petitioner erred in filling out the on-line SMRF. It clearly was not intentional, but the overpayment still must be recovered.

CONCLUSIONS OF LAW

Petitioner's household was overpaid MA because petitioner failed to report that her husband had returned to work on the household's SMRF in both 2012 and 2013.

THEREFORE, it is **ORDERED**

That the petition for review herein be and the same is hereby 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 Madison,
Wisconsin, this 11th day of March, 2014

_____

\sBrian C. Schneider
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 March 11, 2014.

Forest County Department of Social Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability