



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/155611

PRELIMINARY RECITALS

Pursuant to a petition filed February 18, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Washington County Department of Social Services in regard to Medical Assistance, a hearing was held on March 18, 2014, at West Bend, Wisconsin.

The issue for determination is whether Petitioner was overpaid \$1422.60 in Medicaid benefits for the period of October 1, 2103 through November 30, 2013 by failing to report an increase in income and assets that would have resulted in a discontinuance of his Medicaid for those two months.

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: Ken Benedum

Washington County Department of Social Services
333 E. Washington Street
Suite 3100
West Bend, WI 53095

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Washington County.

2. Petitioner was sent two Medicaid/BadgerCare overpayment notices, one dated January 8, 2014 and the other dated February 4, 2014. Both informed Petitioner that he was overissued Medicaid benefits in the total amount of \$1422.60 for the period from October 1, 2013 through November 30, 2013.
3. The overpayment here consists of \$1388.88 Medicaid payment for medical expenses and \$33.72 premiums paid by the State government.
4. The reason for the overpayment alleged here was that Petitioner's assets exceeded the Medicaid asset for Petitioner's household size, i.e., \$ 2000.00.
5. Petitioner won \$5000.00 in a raffle in September 2013. Petitioner apparently purchased a vehicle with some of that money but Petitioner's checking account exceeded the \$2000.00 asset limit in the months of October and November 2013.

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 Medicaid Eligibility Handbook (MEH), §22.2.1.1.

The overpayment alleged here occurred as Petitioner failed to report the \$5000.00 raffle winning. Changes in income or assets that could affect eligibility must be reported within 10 days of the date of the change. *MEH, §12.1*. Income received in one month is not accounted as an asset until the next month. *MEH, §16.1*. Gambling winnings are income. *MEH, §15.4.18*. The asset limit is \$2000.00. *MEH, §39.4.1*.

The agency argues that Petitioner had an obligation to report income and assets and had these been reported as required Petitioner would not have been eligible for the Medicaid benefits received. Petitioner, on the other hand, argues that his raffle winnings should be offset by his losses. This is, however, prohibited. *See MEH, §15.4.18*.

I am sustaining the agency overpayment determination. Petitioner had to report income and assets affecting eligibility. The Medicaid program did make payments for Petitioner that it would not have paid had the income and assets been reported as required.

CONCLUSIONS OF LAW

That Petitioner was overissued Medicaid in the amount of \$1422.60 for the period from October 1, 2013 through November 30, 2013 for failing to report income and asset changes affecting eligibility.

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 5th day of May, 2014

\sDavid D. Fleming
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 May 5, 2014.

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