



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/155918

PRELIMINARY RECITALS

Pursuant to a petition filed March 06, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Vilas County Department of Social Services in regard to Medical Assistance, a hearing was held on April 28, 2014, at Eagle River, Wisconsin.

The issue for determination is whether the Department met its burden of establishing the overpayment.

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: Buelah Garcia

Vilas County Department of Social Services
330 Court Street
Eagle River, WI 54521

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Vilas County.
2. O'Brien and Associates private investigators conducted an investigation and determined that petitioner was liable for a MA overpayment.

3. O'Brien and Associates private investigators calculated an overpayment amount of \$2,011.
4. Notice of overpayment was sent on 12/3/14 to petitioner.
5. Petitioner appealed.

DISCUSSION

At the time of hearing, the agency representative recognized errors in the calculation of the overpayment and that the private investigator who had determined the overpayment had erred in his/her application of income limit rules. The agency conceded that it could not support the overpayment finding or calculation.

CONCLUSIONS OF LAW

The agency did not meet its burden of establishing the overpayment as the O'Brien and Associates investigation and overpayment determination was in error.

THEREFORE, it is ORDERED

That this matter is remanded to the Department and its county agent with instructions to reverse the finding of overpayment and cease all collection efforts. Any funds recouped shall be returned to petitioner. These actions shall be completed within 10 days.

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 5th day of May,
2014

\sJohn P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on May 5, 2014.

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