



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/156243

PRELIMINARY RECITALS

Pursuant to a petition filed March 22, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Monroe County Department of Human Services ["County"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on April 15, 2014. The Hearing for this matter was held at the same time as the Hearing for the following closely related matter concerning the same petitioner: FOP-156242.

The issue for determination is whether the following Claim can be established against petitioner for an MA overpayment: Claim Number [REDACTED] for the time period January 1, 2013 to December 31, 2013 in the amount of \$1,134.00.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED] [REDACTED] (not present at April 15,
2014 Hearing)

[REDACTED]
[REDACTED]

Represented by:

[REDACTED] [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Tom Miller, ES Supervisor
Bob Uebele, ESS

Monroe County Department of Human Services
Community Services Bldg.
14301 Cty Hwy B, Box 19
Sparta, WI 54656-4509

ADMINISTRATIVE LAW JUDGE:
 Sean P. Maloney
 Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Monroe County, Wisconsin.
2. The County established the following Claim against petitioner for an MA overpayment: Claim Number [REDACTED] for the time period January 1, 2013 to December 31, 2013 in the amount of \$1,134.00.
3. On August 27, 2012 [REDACTED] reported to the County that petitioner started a new job; the amount of income she reported was not correct (the income reported was too low); incorrect lower income was also reported by petitioner on February 1, 2013 and February 11, 2013; petitioner's employer also reported incorrect lower income to the County; petitioner consistently (every week) had overtime income that was not reported.
4. The MA overpayment in *Findings of Fact #2*, above, resulted from the fact that petitioner and his employer failed to report petitioner's correct income; as a result petitioner was not charged an MA premium when he should have been.

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) (2011-12); See also, *Medicaid Eligibility Handbook* ["MEH"] 22.2.1; BEM/DWS Operations Memo, No: 05-39, Date: 09/29/2005; and, BEM/DWS Operations Memo, No: 06-10, Date: 02/09/2006.

In this case petitioner and his employer failed to report petitioner's correct income. As a result petitioner was not charged an MA premium when he should have been. This caused the MA overpayment listed in *Findings of Fact #2*, above.

Petitioner argues that the overpayment is not his fault because he did not know he had to report overtime income and because his employer also reported incorrect income. However, the law, as already noted, is that an MA overpayment occurs whenever an MA recipient, or any other person responsible for giving information on the recipient's behalf, fails to report any change in the recipient's financial situation that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.

Therefore, petitioner can be held liable for the MA overpayment in this matter.

CONCLUSIONS OF LAW

For the reasons discussed above, the MA overpayment detailed in *Findings of Fact #2*, above, may be established against petitioner.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 13th day of May, 2014

\sSean P. Maloney
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 13, 2014.

Monroe County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability