



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

MOP/157177

PRELIMINARY RECITALS

Pursuant to a petition filed April 25, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Chippewa County Department of Human Services in regard to Medical Assistance, a hearing was held on August 20, 2014, at Chippewa Falls, Wisconsin. Hearings scheduled for June 11, 2014, and July 15, 2014, were rescheduled at the petitioner's request.

The issue for determination is whether the petitioner must repay an alleged overpayment of medical assistance.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Aaron Borreson

Chippewa County Department of Human Services  
711 N. Bridge Street  
Chippewa Falls, WI 54729-1877

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien  
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # ) is a resident of Chippewa County.
2. The county agency seeks to recover \$15,407.10 in medical assistance benefits provided to the petitioner's household from July 1, 2009, through February 28, 2014.

- 3. The petitioner did not appear. His interests were represented by his wife, against whom a separate but identical action had been taken.
- 4. *DHA Decision No MOP/157176* determined that the agency correctly sought to recover \$15,407.10 in medical assistance benefits provided to the petitioner’s household from July 1, 2009, through February 28, 2014.

**DISCUSSION**

The department may recover any overpayment of medical assistance that occurs because 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 [BadgerCare].
- 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.

Wis. Stat. § 49.497(1).

“The department's right of recovery is against any Medical Assistance or Badger Care recipient to whom or on whose behalf the incorrect payment was made.” Wis. Stat. § 49.497(1)(b).

The petitioner lives with his wife and two children. (There had been three children in the household until a couple years ago.) It brought an action to recover \$15,407.10 in medical assistance benefits provided to their household from July 1, 2009, through February 28, 2014. Both appealed, but only the petitioner’s wife appeared at the hearing, where she represented both of their interests. Because the two matters are identical, the decisions should be too. The decision involving the petitioner’s wife, *DHA Decision No MOP/157176*, dismissed her appeal and determined that the agency correctly seeks to recover the \$15,407.10 in medical assistance benefits provided her household from July 1, 2009, through February 28, 2014. Based upon that decision, I will also dismiss the petitioner’s appeal.

**CONCLUSIONS OF LAW**

The county agency correctly seeks to recover \$15,407.10 in medical assistance benefits provided to the petitioner’s household from July 1, 2009, through February 28, 2014

**THEREFORE, it is** **ORDERED**

The petitioner's 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 11th day of September, 2014

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\sMichael D. O'Brien  
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 September 11, 2014.

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