



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MOP/157690

PRELIMINARY RECITALS

Pursuant to a petition filed May 14, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Waupaca County Department of Social Services in regard to Medical Assistance, a hearing was held on June 30, 2014, at Waupaca, Wisconsin.

The issue for determination is whether the Department erred in its determination of the overpayment amount.

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: Pat Moe

Waupaca County Department of Social Services
811 Harding Street
Waupaca, WI 54981-2087

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Waupaca County.
2. The agency determined that petitioner failed to report accurate household income and should have been responsible for paying a premium for BC+ during the period of May and June 2012.

The agency calculated the overpayment at \$18,270. This was the sum of fees paid to providers and capitation rate payments.

3. Petitioner filed a timely appeal.

**DISCUSSION**

The agency determined that a failure of petitioner to report all household income has resulted in an overpayment. The agency explained at hearing that if the income had been reported correctly then the petitioner would have been eligible for BC+ with a premium rather than without. Because no premium was paid, the agency reasons, the petitioner was not actually eligible for BC+ during the overpayment period. The agency has calculated the overpayment as a sum of capitation payments and paid fee-for-service payments to providers. This would be the correct calculation if the petitioner was ineligible during the OP period. But, petitioner would have been eligible with a premium. In such a case, the overpayment is the difference between the premium owed and the actual premium paid, if any. This is clear from the BC+ Eligibility Handbook and the example provided (emphasis added):

**28.4.2 Overpayment Amount**

Use the actual income that was reported or required to be reported in determining if an overpayment has occurred.

If the case was ineligible for BC+, recover the amount of medical claims paid by the state and/or the capitation rate. Use the ForwardHealth interChange data from the Total Benefits Paid by Medicaid Report(s). Deduct any amount paid in premiums (for each month in which an overpayment occurred) from the overpayment amount.

**If the case is still eligible for BC+ for the timeframe in question, but there was an increase in the premium, recover the difference between the premiums paid and the amount owed for each month in question.** To determine the difference, determine the premium amount owed and view the premium amount paid on CARES screen AGPT.

The overpayment amount is the difference between the premium paid and premium owed even if the premium that was paid was \$0.

**Example:** Tom and his family became eligible for BC+ in June 2008, without a premium. In his application Tom failed to disclose income from a second job which would have resulted in \$100 per month group premium. All individuals in the group remained eligible for BC+. This new information was discovered in July 2008.

Overpayment Calculation  
 \$100 premium owed for June  
 + \$100 premium owed for July  
 \$200 Total premium owed  
 - \$ 0 premium paid  
 \$200 Overpayment

The overpayment amount should be redetermined consistent with the program guidance.

**CONCLUSIONS OF LAW**

The agency miscalculated the overpayment.

**THEREFORE, it is**

**ORDERED**

That this matter is remanded to the Department and its county agent with instructions to redetermine the overpayment amount by determining the amount of premiums that would have been owed during the overpayment period minus any premiums actually paid. New notice shall be provided to petitioner with new appeal rights. These actions must be completed within 10 days of the date of this Decision.

**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 23rd day of July, 2014

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\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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 23, 2014.

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