



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MOP/159634

PRELIMINARY RECITALS

Pursuant to a petition filed August 07, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Barron County Department of Human Services in regard to Medical Assistance, a hearing was held on September 16, 2014, at West Bend, Wisconsin.

The issue for determination is whether Petitioner was overpaid Medicaid benefits for the period of October 1, 2012 through September 30, 2013 by failing to report an increase in household income.

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: C. Gillett

Barron County Department of Human Services
Courthouse Room 338
330 E Lasalle Ave
Barron, WI 54812

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 and her spouse were both sent a notice of over payment of health care benefits, dated June 23, 2014, that informed them that they had been overissued health care benefits in the amount of \$3783.51 (claim number [redacted]). The period of the overpayment was October 1, 2012 through September 30, 2013, though there was no overpayment for the month of November 2012.

3. Petitioner's household size was 3 at all times relevant here - Petitioner, spouse and their minor child.
4. The reason for the payment alleged here was that household wages increased and was not reported. That increase in income pushed household income over BadgerCare+ income eligibility or premium requirement limits for adults and the premium limits for the child.
5. A February 16, 2012 Notice of Decision does state that income in excess of \$2008.00 had to be reported to the agency.
6. As of August 2012 Petitioner's gross household income was \$4221.16 – that should have been reported by September 10, 2012. During the period of October 2012 through September 2013 Petitioner's household income exceeded \$2115.80 in each month except November 2012. This was not reported.
7. Petitioner had other insurance during part or all of the time involved here that did pay \$6762.66 of Petitioner's medical bills. Nonetheless, BadgerCare+ Medicaid paid for that portion of bills not covered by the private insurance. The overpayment consists of those payments plus the premiums paid by the State for Petitioner's HMO (aka the capitation rate).
8. The BadgerCare+ premium income limits applicable during the time period relevant here were 133% Federal Poverty Level (FPL) for adults which was \$2115.80 for a group of 3 and 200% of the Federal Poverty Level (FPL) for children which was \$3181.67 for a group of 3. *See BEH, §§16.1 and Operations Memo # 12-05.*

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).*

All medical assistance recipients must report changes to the agency within 10 days. *Wis. Admin. Code, § DHS § 104.02(6)*. Those receiving BadgerCare Plus have to report changes in income must be reported when the income reached any of the following levels:

- 100% FPL
- 133% FPL
- 150% FPL
- 185% FPL
- 200% FPL
- 250% FPL
- 300% FPL
- 350% FPL
- 400% FPL

BadgerCare+ Eligibility Handbook, § 27.3 - release 12-02, effective July 1, 2012.

Eligibility and premium requirements depend upon total household income. *See Wis. Stat. § 49.471(1)(f)*. During the period of the alleged overpayment, adults generally could not receive benefits if their household's income exceeded 200% of the federal poverty level. This limit generally did not apply to children. *Wis. Stat. § 49.471(4)(a)*. However, adults in households with income that exceeded 133% of the federal poverty level had to pay a premium. Premiums were not assessed for children until household income exceeded 200% of the Federal Poverty Level. *Wis. Stat. § 49.471(10)(b); BadgerCare Plus Handbook, 19.1 - release 12-02, effective July 2012*.

There is an overpayment here. The obligation to report income is noted above and Petitioner did not make the required report leading to a payment of benefits in excess of what Petitioner's household was eligible for. Here Petitioner notes that the family had other insurance; nonetheless, premiums were paid by the State for periods in which there was no adult eligibility and some medical costs not covered by private insurance were also paid for by the State for periods where there was no eligibility.

CONCLUSIONS OF LAW

That Petitioner failed to report required increases in income thereby creating an overpayment of \$3783.51 (claim number [REDACTED]) in Medicaid benefits during the period of October 2012 through September 2013.

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 3rd day of November, 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 November 3, 2014.

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