



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/160157

PRELIMINARY RECITALS

Pursuant to a petition filed August 25, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the [REDACTED] Department of Social Services in regard to Medical Assistance, a hearing was held on September 18, 2014, at Lancaster, Wisconsin.

The issue for determination is whether the petitioner must repay an overpayment of Medical Assistance benefits.

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: Katie Grinnell

[REDACTED] Department of Social Services
Hwys 35 and 61 South
PO Box 447
Lancaster, WI 53813

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of [REDACTED] and at all times material hereto received Medical Assistance benefits.

2. The petitioner failed to timely report household income for KJ (employed by [REDACTED]) and AMJ (employed by [REDACTED]).
3. The county agency seeks to recover two Medical Assistance (MA) overpayment claims regarding benefits provided to the petitioner from November 1, 2013, through July 31, 2014: Claim no. [REDACTED] in the amount of \$5,523.00 and Claim no. [REDACTED] in the amount of \$695.00.

DISCUSSION

The county agency seeks to recover a total of \$6,218.00 in BadgerCare Plus benefits provided to the petitioner and her family from November 1, 2013, through July 31, 2014, because it contends that she failed to report income that affected their benefits.

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 petitioner's eligibility and premiums depended upon her household's income. *See* Wis. Stat. § 49.471(1)(f). All medical assistance recipients must report changes to the agency within 10 days. Wis. Admin. Code, § DHS § 104.02(6). Those receiving BadgerCare Plus had to report changes in income 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 Plus Eligibility Handbook, § 27.3.

The respondent based the amount of the overpayment on her household's actual household income each month during this period, as is required by the *BadgerCare Plus Handbook*, § 28.4.2. In the months she still would have been eligible, it subtracted any premium she paid from the additional premiums she would have still been responsible for. In the months she should have been ineligible, it subtracted the premiums she paid from the capitation fee the program paid for her benefits. Thus, the overpayment was determined by subtracting the premiums she actually paid from the sum of the premiums she should have paid plus the capitation fees the Department should not have to have paid in the months she was ineligible. This method is consistent with the instructions in the *BadgerCare Plus Handbook*, § 28.4.2.

The petitioner does not dispute that her household income exceeded the BadgerCare Plus thresholds in months the agency determined it did. Nor does she dispute the agency's calculations. Rather, she contends that she has historically provided her income information annually, since it is self-employment income. She also stated that there was some confusion as to whether AMJ was still part of her MA household.

The large overpayment now assessed against her undoubtedly creates a financial hardship, but it is a hardship that she could have prevented at any time by reporting her household's change of income to the agency. When she did not report her increases in income, she failed to report a change in her financial situation that would have affected her eligibility for benefits or her premium requirements. Because she did not report this information, whether her failure to report was intentional or not, Wis. Stat. § 49.497(1) requires her to repay the benefits she was not entitled to.

CONCLUSIONS OF LAW

The county agency correctly seeks to recover two Medical Assistance (MA) overpayment claims regarding benefits provided to the petitioner from November 1, 2013, through July 31, 2014: Claim no. [REDACTED] in the amount of \$5,523.00 and Claim no. [REDACTED] in the amount of \$695.00, because petitioner failed to report income that affected those benefits

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 23rd day of October, 2014.

\sPeter McCombs
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 October 23, 2014.

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