



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/160491

PRELIMINARY RECITALS

Pursuant to a petition filed September 10, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Rock County Department of Social Services in regard to Medical Assistance, a hearing was held on October 13, 2014, at Janesville, Wisconsin.

The issue for determination is whether the Department erred in its determination of petitioner's liability for a medical assistance overpayment in the amount of \$5,109.59 for the period from 12/1/13 to 2/28/14.

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: Mary Donohue

Rock County Department of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County.
2. Petitioner was open for BC+ until the end of November 2013.
3. Petitioner's daughter turned 19 on November 2, 2013.

4. BadgerCare+ closed at the end of November.
5. Petitioner requested a fair hearing on November 21, 2013 and requested reinstatement and continuation of BC+ during the appeal process.
6. By decision dated February 11, 2014, ALJ Brian Schneider ruled petitioner no eligible for BC+ and dismissed the appeal.
7. On 8/7/14, the Department sent notice to petitioner informing her of a determination of liability for a medical assistance overpayment in the amount of \$5,109.59 for the period from 12/1/13 to 2/28/14.
8. Petitioner filed an appeal.

DISCUSSION

At the time of hearing, petitioner conceded every point the agency had made. Petitioner's only argument was that she is in the process of appealing a denial of disability status by the DDB. She explained that there is a long wait until her hearing on the disability issue. She explained that she would like a stay of the overpayment during the appeal of the disability status as she believes a finding of disability could result in retroactive disability status which would moot the overpayment.

This may be true. But, I have no authority to stay the fair hearing decision process. At this point, there has been a determination that petitioner is not disabled. That may change. But, until it does, petitioner and the agency must operate under the fact of that determination.

CONCLUSIONS OF LAW

The Department did not err in its determination of the overpayment.

THEREFORE, it is **ORDERED**

That this matter 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 4th day of November, 2014

\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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on November 4, 2014.

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