



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/160627

PRELIMINARY RECITALS

Pursuant to a petition filed September 17, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the La Crosse County Department of Human Services in regard to Medical Assistance (MA), a hearing was held on October 28, 2014, by telephone.

The issue for determination is whether the Department correctly determined that the petitioner was overpaid MA benefits during the January through July 2013 period.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Tom Miller, ES Supr.

La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of La Crosse County.

2. The petitioner was on the MAPP program from 2003 through July 2013. MAPP is a subset of the Wisconsin Medical Assistance program for disabled persons.
3. Prior to November 2012, the petitioner was not receiving VA payments. Beginning in November 2012, he began receiving a monthly VA benefit of \$1,293.00.
4. The petitioner was required to report his income increase within 10 days (*i.e.*, in early December 2012). If the petitioner's VA income had been included in his income budgeting from January 2013 through July 2013, the result would have been that he would not have been eligible for QMB or MAPP. The agency discovered this error while performing an annual review in July 2013.
5. On August 5, 2014, the Department issued *Medical Assistance/BadgerCare Plus Overpayment Notices* to the petitioner. The two *Notices* advised that he had been overpaid MAPP and QMB benefits totaling \$4,263.80. *See*, Exhibits 4, 5.

DISCUSSION

DHS is legally required to seek recovery of incorrect MA payments when a recipient engages in a misstatement or omission of fact to the MA program, which in turn gives rise to an MA overpayment:

49.497 Recovery of incorrect medical assistance pay-

ments. (1) (a) The department may recover any payment made incorrectly for benefits provided under this subchapter or s.49.665 if the incorrect payment results from any 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.
2. The failure of a Medical Assistance or BadgerCare 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*** for the recipient's cost-sharing requirements.

(b) 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. The extent of recovery is limited to the amount of the benefits incorrectly granted ...

(emphasis added)

Wis. Stat. §49.497(1). See also, *Medicaid Eligibility Handbook*, 22.2.1, available at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm> .

In this case, MA payments (MAPP and QMB) were clearly, incorrectly made on the petitioner's behalf from January through July 2013. There is no dispute that the petitioner's income caused him to be ineligible for MAPP and QMB during these months.

An income change is to be reported within 10 days. *MEH*, §12.1. The petitioner's representative candidly admitted that the petitioner erred by not timely reporting his VA income.

The concern that the petitioner's representative brought to hearing is one over which I lack jurisdiction. She is unhappy with the *amount* of the charges billed to MA by the LaCrosse County mental health program. There is no dispute that the MA program paid those billings, and the MA payments are the

correct measure of the overpayment amount (less the MAPP premiums paid by the petitioner). I lack the authority, based on a hearing request made by a recipient, to tell a provider that they have overcharged the MA program. Mr. Miller suggested that the petitioner take up the topic of the amount of the provider's charges through a county grievance. If the county mental health program subsequently revises its charges downward, the revision should be brought to Mr. Miller's attention, and the Department can make the corresponding reduction in the MA/MAPP overpayment amount.

CONCLUSIONS OF LAW

1. The petitioner was overpaid MAPP/QMB benefits of \$4,263.80 for the January 2013 through July 2013 period.

THEREFORE, it is

ORDERED

That the petition 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 20th day of November, 2014

\sNancy J. Gagnon
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 20, 2014.

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