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[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

|

[REDACTED]
[REDACTED]

MOP/160676

PRELIMINARY RECITALS

Pursuant to a petition filed September 15, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance, a hearing was held on October 14, 2014, at Racine, Wisconsin.

The issue for determination is whether Petitioner was overpaid Medicaid benefits for the period of May 1, 2012 through December 31, 2013 by failing to report an increase in household income.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

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

By: Dean Landvatter

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

This hearing was combined with a hearing for Petitioner's spouse; nonetheless, a separate decision is required though the two decisions are virtually identical.

FINDINGS OF FACT

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

2. Petitioner and his spouse were both sent multiple notices of over payment of health care benefits, dated September 4, 2014, that collectively informed Petitioner that he and his wife’s BadgerCare+ Medicaid group had been overissued BadgerCare+ Medicaid benefits in the total amount of \$ 5450.92 during the period from May 1, 2012 through December 31, 2013.
3. Based on the Federal Poverty levels used by the agency, this was a household size of 4 at all times relevant here - Petitioner, spouse and their minor children.
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. As of February 2012 Petitioner’s gross household income was \$3200.45 – that should have been reported by March 10, 2012. During the period involved here Petitioner’s household income BadgerCare+ Medicaid exceeded premium limits and sometimes eligibility limits for adults. That income was not reported.
6. Petitioner’s spouse had other insurance through employment during part of the time involved here. Nonetheless, BadgerCare+ Medicaid paid for that portion of bills not covered by the private insurance and/or premiums were paid by the State for Petitioner’s HMO (aka the capitation rate).
7. The BadgerCare+ premium and eligibility income limits applicable during the time periods relevant here were:

May & June 2012	150% FPL - \$2881.25; 200% FPL – \$3841.66
July 2012 – January 31, 2013	133% FPL - \$2554.70; 200% FPL – \$3841.66
February 2013 – December 2013	133% FPL - \$2610.13; 200% FPL - \$3925.00

See Operations Memo #s 12-05; 12-25 and 13-02; <http://www.dhs.wisconsin.gov/em/ops-memos/index.htm>

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 150% of the FPL prior to July 2012 and 133% of the FPL after that 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 \$5450.92 in Medicaid benefits during the period of May 1, 2012 through December 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 25th 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 25, 2014.

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