



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MOP/161114

PRELIMINARY RECITALS

Pursuant to a petition filed October 07, 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 November 04, 2014, at Janesville, Wisconsin.

The issue for determination is whether the respondent correctly determined that petitioner received an overpayment of BadgerCare Plus benefits between May 1, 2013, and June 30, 2013, in the amount of \$670.00.

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: Laura Middleton

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

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Rock County.
2. The county agency contends that the petitioner received an overpayment of \$670.00 in BadgerCare Plus benefits between May 1, 2013, and June 30, 2013.

3. The respondent utilized converted income figures when determining the overpayment.
4. The respondent issued notice of the overpayment to the petitioner on or about August 27, 2014. Petitioner timely appealed the overpayment determination.

DISCUSSION

The county agency seeks to recover \$670.00 in BadgerCare Plus benefits provided to the petitioner and his family from May 1, 2013, through June 30, 2013, because it contends that he failed to report increased household income that affected their benefits. BadgerCare Plus provided medical assistance to children under 19 and their parents. Wis. Admin. Code, § 49.471.

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 his household's income. *See* Wis. Stat. § 49.471(1)(f). During the period of the alleged overpayment, adults usually 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). As of July 1, 2012, adults in households with income that exceeded 133% of the federal poverty level had to pay a premium. (Before then, the income limit for premiums was 150% of the federal poverty level.) Premiums were not assessed for children until their income exceeded 200% of the federal poverty level. Wis. Stat. § 49.471(10)(b); *BadgerCare Plus Handbook*, 19.1.

All medical assistance recipients must report changes to the agency within 10 days. Wis. Admin. Code, § DHS § 104.02(6). Those receiving BadgerCare Plus 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 county agency notified petitioner's household on February 26, 2013, that it must report if the household's income exceeded \$2,610.13. *Exhibit 10*. Petitioner's household income exceeded that amount

in each of the overpayment months. The agency thoroughly documented the petitioner's reported income and actual income along with the amount of benefits the household received and the amount it should have received when determining the overpayment. I have reviewed that documentation and compared it against the proper allotments based on net income and find the calculations accurate. *Id.*, § 8.1.2. The agency based the amount of the overpayment on the petitioner's actual household income each month during this period, as is required by the *BadgerCare Plus Handbook*, § 28.4.2. This method is consistent with the instructions in the *BadgerCare Plus Handbook*, § 28.4.2. Therefore, I will uphold its decision.

CONCLUSIONS OF LAW

The county agency correctly seeks to recover \$670.00 in BadgerCare Plus benefits provided to the petitioner and his family from May 1, 2013, through June 30, 2013, because he failed to timely report increased 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 24th day of November, 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 November 24, 2014.

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