



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MOP/161327

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 18, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Barron County Department of Human Services in regard to Medical Assistance, a hearing was held on November 13, 2014, at Barron, Wisconsin.

The issue for determination is whether the petitioner must repay an overpayment of medical assistance that occurred because she forgot to notify the agency that her income had increased.

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: Dayna Stellrecht

Barron County Department of Human Services  
Courthouse Room 338  
330 E Lasalle Ave  
Barron, WI 54812

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien

Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Barron County.
2. The petitioner applied for medical assistance on July 7, 2014, and was interviewed on July 10, 2014. She reported at the interview that she had no income.

3. The petitioner was hired for a new job on July 14, 2014, and received her first paycheck on July 25, 2014.
4. The petitioner's income was more than 100% of the federal poverty level through September 2014. She stopped working after this.
5. The medical assistance program paid \$22.38 for medical care the petitioner received in September 2014. It also made a \$407.19 capitation payment on her behalf that month.

### DISCUSSION

The department may recover any overpayment of medical assistance that occurs because the recipient failed report income that would have affected her benefits. Wis. Stat. § 49.497(1). Single adults cannot receive BadgerCare Plus, Wisconsin's medical assistance program for those who are not disabled or elderly, if their countable income exceeds 100% of the federal poverty level. Wis. Stat. § 49.471(4)(a). The petitioner applied for BadgerCare Plus on July 7, 2014, and was interviewed three days July 10, 2014. She had no income then, but on July 14, 2014, she found a job and received her first paycheck eleven days later.

Recipients must report relevant changes in income within 10 days. Wis. Admin. Code, § DHS 104.02(6). The petitioner concedes that she earned over 100% of the federal poverty level and that she did not report that her income had increased. If she had reported the change within 10 days of July 25, her benefits would have been affected the month after she reported it, or September 2014. The amount that can be recovered from a recipient who should have ineligible consists of her capitation rate plus any medical claims the state paid on her behalf. *BadgerCare Plus Handbook*, § 28.4.2. In September 2014, the petitioner's capitation rate was \$407.19, and the state paid \$22.38 for her medical care for a total of \$429.57. The Department seeks to recover this amount from her for her coverage in September 2014.

The petitioner testified that she did not report the change in her income because she did not have time to. She was working nights 13 hours a day, seven days a week and slept during the day. She has established that her failure to report the change was unintentional. But this is not the issue. Rather the issue is whether she had a change in income affecting her benefits that she did not report within 10 days. She did have this change. As a result, the agency correctly seeks to recover the \$429.57 overpayment.

### CONCLUSIONS OF LAW

The agency correctly seeks to recover the overpayment of medical assistance the petitioner received in September 2014 as a result of not her reporting her change of income within 10 days.

**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 14th day of November, 2014

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\sMichael D. O'Brien  
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 14, 2014.

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