



FH

Redact

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

In the Matter of:

[REDACTED]
[REDACTED]
Redact

DECISION

MAC/161368

PRELIMINARY RECITALS

Pursuant to a petition filed October 20, 2014, under Wis. Stat. § 49.497(1m)(a), to review a decision by the Wood County Human Services - WI Rapids ["County"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on December 9, 2014. The Hearing for this matter was held at the same time as the Hearing for the following closely related matter concerning petitioner's wife: MAC-161370.

The issue for determination is whether the Division of Hearings and Appeals ["DHA"] has jurisdiction in this matter.

There appeared at that time via telephone following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
Redact

Respondent:

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

BY: Beulah Garcia, Resolution Coordinator
Wood County Human Services - WI Rapids
320 West Grand Avenue
PO Box 8095
Wisconsin Rapids, WI 54495-8095

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # Redact) is a resident of Dane County, Wisconsin.
2. Petitioner received a notice via U.S. Mail; the notice was dated October 3, 2014 and entitled *Notice Of Administrative Action*; enclosed with the notice was an *Order to Compel Payment of Liability* and an *Affidavit of Collector* both also dated October 3, 2014; the *Order to Compel Payment of Liability* stated that petitioner must pay “the amount of \$4,707.71 for the overpayment of Medical Assistance / BadgerCare / BadgerCare Plus benefits;” all of this concerned 2 MA overpayment claims with Claim numbers Redact (\$877.71) and Redact (\$3,829.94) covering the time period November 1, 2012 to July 31, 2013 [“MA Overpayments”].
3. Petitioner has not made any payments toward the MA Overpayments.
4. Petitioner never entered into a repayment agreement for the MA Overpayments.

DISCUSSION

DHA can hear and decide a case on the merits only if there is legal authority for it to do so. In legal language this is called *jurisdiction*. If there is no jurisdiction, the case must be dismissed. Wis. Admin. Code § HA 3.05(4)(a) (February 2013).

The law states that if, after notice of incorrect MA payment is made, a recipient who is liable for an incorrect MA payment fails to repay the incorrect payment or enter into, or comply with, an agreement for repayment than the State of Wisconsin may bring an action to enforce the liability or may issue an order to compel payment of the liability. When an order is issued to compel payment of the liability a Hearing may be requested. However, the only issues at the Hearing shall be the determination that the person has not repaid the incorrect payment or entered into, or complied with, an agreement for repayment. Wis. Stat. § 49.497(1m)(a) (2011-12).

Therefore, in a Hearing, such as this one, concerning an *Order to Compel Payment of Liability* DHA’s jurisdiction is limited to the issues of whether or not the person has repaid the incorrect payment or whether or not the person has entered into, or complied with, an agreement for repayment. In this case petitioner has not repaid the MA Overpayments. There is no dispute about that. Further, petitioner never entered into a repayment agreement for the MA Overpayments. There is also no dispute about that.

Petitioner now seeks to dispute the merits of the MA Overpayments. As explained above, DHA does not have jurisdiction in this matter to Hear such a dispute. It is noted that petitioner has already had a Hearing with regard to the merits of the MA Overpayments. See, DHA Case No. MOP/157088 (Wis. Div. Hearings & Appeals July 17, 2014) (DHS).

CONCLUSIONS OF LAW

For the reasons discussed above, DHA does not have jurisdiction in this matter.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 16th day of December, 2014

\sSean P. Maloney
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 December 16, 2014.

Wood County Human Services - WI Rapids
Public Assistance Collection Unit
Division of Health Care Access and Accountability