



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

MOP/162144

PRELIMINARY RECITALS

Pursuant to a petition filed November 25, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Taylor County Department of Human Services in regard to Medical Assistance, a hearing was held on December 15, 2014, at Medford, Wisconsin.

The issue for determination is whether the petitioner must repay an alleged overpayment of medical assistance.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

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

By: Redact

Taylor County Department of Human Services
540 E. College Street
Medford, WI 54451-2027

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # Redact) is a resident of Taylor County.
2. The petitioner has worked for the local school district since 2006. Each year she works from January to the beginning of June and from September to December.

3. The petitioner reported on July 5, 2013, that she was through working for the summer. She reported on November 5, 2013, that she had returned to work in September 2013.
4. The county agency seeks to recover a total of \$328 in BadgerCare Plus benefits provided to the petitioner in November and December 2014.

### DISCUSSION

Eligibility and premiums for BadgerCare Plus, Wisconsin's medical assistance program for those who are not disabled, blind, or elderly, depends upon the household's income. Wis. Stat. § 49.471(1)(f); *see also*, Wis. Stat. § 49.471 *generally*. All medical assistance recipients must report changes to the agency within 10 days. Wis. Admin. Code, § DHS § 104.02(6). The Department may recover overpayments that occur because a recipient fails to report a change of circumstances that would affect her benefits. Wis. Stat. § 49.497(1). The agency seeks to recover \$328 in FoodShare the petitioner received in November and December 2014 because she failed to report that she had returned to work. She does not challenge the calculations but contends that she should not be responsible for the overpayment because the agency should have been aware that she returned to work at the same time every year.

Each year since 2006, the petitioner has worked for the local school district from January to the beginning of June and from September to December. In 2013, although she returned to work in September, as usual, she did not report this until November 5. If she had reported this within 10 days, the agency would have reduced her benefits in November, which is why that is the month it alleges the overpayment began. Instead, she received additional benefits in both November and December.

Perhaps there is some way for the agency to keep track of when the petitioner worked and did not work, but it would not be simple. Every county agency has hundreds or thousands of clients receiving benefits, many of whom it rarely sees in person. And not everyone with periodic work returns to that work. The petitioner was aware that the agency did not automatically change her benefits because she reported in July 2013 that had stopped working. But more important than the complication involved in fulfilling her request is that there is no basis for it in medical assistance law, which must provide the basis of my decision. Rather, medical assistance law requires the *recipient* to report a change of circumstances. The petitioner admits that she did not do this. Therefore, I must uphold the agency's decision.

### CONCLUSIONS OF LAW

The petitioner must repay an overpayment of medical assistance that occurred because she failed to report that she had returned to work.

**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 6th day of January, 2015

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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 January 6, 2015.

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