



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

MAC/162264

PRELIMINARY RECITALS

Pursuant to a petition filed November 25, 2014, under Wis. Stat. § 49.497(1m)(a), to review a decision by the Calumet County Department of Human Services in regard to Medical Assistance, a hearing was held on December 17, 2014, at Chilton, Wisconsin.

The issue for determination is whether the agency can issue an order against the petitioner to compel payment of an 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

Calumet County Department of Human Services
206 Court Street
Chilton, WI 53014-1198

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # Redact) is a resident of Calumet County.
2. The Department of Health Services (DHS) sent a December 12, 2013, written *Medicaid/Badgercare Overpayment Notice* concerning an MA overpayment during the period of March, 2013, through July, 2013, in the amount of \$2,540.46, due to failure to timely report an

increase in household income. See Exhibit 3. Petitioner appealed that overpayment in DHA case no. MOP/155024, but withdrew her appeal prior to hearing.

3. On January 4, 2013, the respondent sent petitioner a repayment agreement; dunning notices were sent June 3, 2014, July 2, 2014, and August 4, 2014. See, Exhibits 2 and 3.
4. The Department's Public Assistance Collection Unit (PACU) sent a November 13, 2014, notice entitled *Notice of Administrative Action*; enclosed with the notice was an *Order to Compel Payment of Liability* and an *Affidavit of Collector*; all of this concerned the MA overpayment claims established against petitioner in the total amount of \$2,540.46, between March, 2013, and July, 2013.
5. Petitioner and respondent have not entered into a repayment agreement. Petitioner has offered repayment terms, but the respondent has not accepted petitioner's proposal.
6. The petitioner submitted appeal letter postmarked November 25, 2014.

DISCUSSION

Following issuance of an MA/MAPP overpayment notice, a person who then fails to enter into or adhere to a repayment agreement may be subject to an order to compel payment of that liability:

49.497(1m)(a) (a) If, after notice that an incorrect payment was made, a recipient, or parent of a minor recipient, who is liable for repayment of an incorrect payment fails to repay the incorrect payment or enter into, or comply with, an agreement for repayment, the department may bring an action to enforce the liability or may issue an order to compel payment of the liability. Any person aggrieved by an order issued by the department under this paragraph may appeal the order as a contested case under ch. 227 by filing with the department a request for a hearing within 30 days after the date of the order. The only issue at the hearing shall be the determination by the department 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).

The above law indicates that if, after notice of incorrect payment is made, a recipient who is liable for an incorrect 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. Wis. Stat. § 49.497(1m)(a) (2007-08). In this case the State of Wisconsin has correctly issued an order to compel payment of the liability. The petitioner has appealed the order to compel, but according to the law the only issue that can be addressed is whether she paid off the overpayment, or whether she has entered into a repayment agreement and complied with it.

As noted in the Findings of Fact, the petitioner and respondent have not agreed upon any repayment plan. This matter was rescheduled to allow the petitioner time to pursue a repayment agreement, but the parties could not come to terms. The petitioner also conceded that she has not made any payments toward this debt. Thus, I must conclude that the respondent correctly issued an Order to Compel for the outstanding debt.

CONCLUSIONS OF LAW

The respondent correctly issued to the petitioner an Order to Compel Payment of Liability for an MA overpayment in the total amount of \$2,540.46, between March, 2013, and July, 2013.

THEREFORE, it is ORDERED

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 4th day of February, 2015.

\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 February 4, 2015.

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