



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
[Redacted]

DECISION

MOP/162443

PRELIMINARY RECITALS

Pursuant to a petition filed December 06, 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 January 13, 2015, at Barron, 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:

[Redacted]
[Redacted]
[Redacted]

Respondent:

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

By: [Redacted]
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 county agency notified the petitioner on August 14, 2012, that she must report within 10 days of the end of any month in which her household income exceeded \$2,116.80.

3. The petitioner's household income in October 2012 was \$2,858.40. She never reported this to the county agency.
4. The agency seeks to recover \$1,446 in benefits provided to the petitioner from December 2012 through June 2013.

DISCUSSION

The county agency seeks to recover \$1,446 from the petitioner for an alleged overpayment of BadgerCare Plus benefits provided to her family from December 2012 through June 2013 because it contends that she failed to report income that affected their benefits. During this period 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).

Eligibility and premiums depended upon total household income. *See* Wis. Stat. § 49.471(1)(f). During the period of the alleged overpayment, adults generally 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). Adults in households with income that exceeded 150% of the federal poverty level had to pay a premium. 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 must be reported 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 the petitioner on August 14, 2012, that she must report a change within 10 days of the end of any month in which her household income exceeded \$2,116.80. Her household income in October 2012 was \$2,858.40. She never reported this to the county agency. Because she should have

reported this by November 10, 2012, it would have affected her benefits beginning in December 2012. She does not dispute the agency's calculations. Rather she testified that it makes her "upset" and "very made" that it took the agency "2 ½ years" [sic] to discover her error. She can be as upset and angry as she wants, but she broke the program's rules, and it is not a defense that the agency did not catch her sooner. She remains responsible for the overpayment.

CONCLUSIONS OF LAW

The petitioner must repay an overpayment of medical assistance that occurred because she failed to report an increase in her household income.

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 29th day of January, 2015

\sMichael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 29, 2015.

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