



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MOP/162593

PRELIMINARY RECITALS

Pursuant to a petition filed December 12, 2014, under Wis. Stat., §49.45(5), to review a decision by the Northern IM Consortium to recover Medical Assistance (MA), a hearing was held on February 11, 2015, by telephone. A hearing set for January 14, 2015 was rescheduled at the petitioner's request.

The issue for determination is whether the agency correctly determined an MA overpayment.

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Beulah Garcia
Northern IM Consortium
10610 Main Street
Hayward, WI 54843

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Wood County.
2. In the past years petitioner has resided with her husband and their two children. Petitioner's husband has not been eligible for Food Share or MA due to citizenship. Petitioner and the children received BadgerCare Plus (BC+) MA with no premium.
3. In June, 2012, petitioner reported that her husband was working and the income was verified. BC+ continued with no premium based upon \$580 weekly income from petitioner's husband's job.

4. The agency later received information that petitioner's husband's income was higher than reported. By two notices dated November 3, 2014, the agency informed petitioner that she was overpaid BC+ totaling \$1,514 from August, 2012 through December, 2013, claim nos. [REDACTED] and [REDACTED]. The overpayment is all premiums that would have been paid had income been reported timely.
5. Petitioner had contact with the agency to contest the amount of income budgeted. The agency then requested verification of the income from the employer. At that time it was discovered that he actually started working in January, 2011.
6. By a notices dated January 8, 2015, the agency informed petitioner that was overpaid an additional \$532 in BC+ from April 1 through January 31, 2012, claim no. [REDACTED].
7. The agency recalculated the overpayment after petitioner filed the appeal. It now shows as \$532 for the period April, 2011 through January, 2012, \$591 for the period October, 2012 through May, 2013, and \$292 for the period September through November, 2013, for a total of \$1,415.

DISCUSSION

MA overpayment recovery is authorized by Wis. Stat., §49.497(1):

(a) The department may recover any payment made incorrectly for benefits provided under this subchapter or s. 49.665 if the incorrect payment results from any 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.
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.

See also the department's BC+ Handbook, Appendix 28.2. The overpayment must be caused by the client's error. Overpayments caused by agency error are not recoverable.

The income of adults in a BC+ household, including parents not eligible for BC+ due to immigration status, must be counted in full in determining eligibility for the eligible children and spouses. See Handbook, App. 2.3.1. Thus petitioner's husband's income should have been counted the entire period that he was working and in the household.

Petitioner testified that she was told that her husband's income would not be counted until her received a social security number. I can find nothing in the policy stating as such, but it explains why petitioner did not report his job until June, 2012. She also testified that she thought she had reported all income. It is true she reported income, but the rules also require increases in income to be reported, and it is evident that his income increased after the report (the big increase occurred in February, 2013).

I conclude that the overpayments were determined correctly. I have reviewed the calculations and find no errors, and petitioner mentioned no errors in the calculations.

CONCLUSIONS OF LAW

The agency correctly determined BC+ overpayments from April, 2011 through November, 2013 caused by petitioner's failure to report the income of a household member and later to fail to report increases in the income.

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 17th day of February, 2015

\sBrian C. Schneider
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 17, 2015.

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