



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

Redacted case name

DECISION

MOP/162627

PRELIMINARY RECITALS

Pursuant to a petition filed December 12, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Portage County Department of Human Services ["County"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on January 15, 2015. The Hearing for this matter was held at the same time as the Hearing for the following closely related matter concerning the same petitioner: FOP-162626.

The issue for determination is whether the following Claim can be established against petitioner for an MA overpayment: Claim # Redacted; January 2014; \$750.00.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

Redacted petitioner name

Respondent:

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

By: Redacted, ES Lead Worker
Portage County Department of Human Services
817 Whiting Avenue
Stevens Point, WI 54481-5292

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # Redacted) is a resident of Portage County, Wisconsin.

2. The County established the following Claim against petitioner for an MA overpayment: Claim # Redact; January 2014; \$750.00.
3. On or about December 1, 2013 petitioner begin receiving a pension; petitioner did not report her pension to the County until January 6, 2014.
4. The MA overpayment in *Findings of Fact #2*, above, resulted from the fact that petitioner failed to report her pension in a timely manner.

DISCUSSION

An overpayment of MA benefits may be recovered only in the following 3 circumstances:

- A. A misstatement or omission of fact by a person supplying information in an application for benefits;
- B. The failure of an MA or BadgerCare 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; or,
- C. The failure of an MA or BadgerCare 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)(a) (2011-12); See also, *Medicaid Eligibility Handbook* [“MEH”] 22.2.1; BEM/DWS Operations Memo, No: 05-39, Date: 09/29/2005; and, BEM/DWS Operations Memo, No: 06-10, Date: 02/09/2006.

An MA member is responsible for notifying his or her MA agency of changes within 10 days of the occurrence. An overpayment occurs if the change would have adversely affected eligibility benefits or the post eligibility contribution amount (cost share, patient liability). See, Wis. Admin. Code §§ DHS 102.01(6) & 104.02(6) (December 2008); MEH 22.2.1.1.1. In this case petitioner failed to report her pension in a timely manner. This caused the MA overpayment listed in *Findings of Fact #2*, above.

Petitioner testified that her failure to report her pension timely was not intentional. This may be correct, but a failure to report timely can trigger an MA overpayment even if it was not intentional. Petitioner also testified that she disagrees “wholeheartedly” with the MA overpayment because she also had Medicare¹ at the time. However, even though petitioner may have had Medicare, there was still an MA overpayment as explained above.

CONCLUSIONS OF LAW

For the reasons discussed above, the MA overpayments detailed in *Findings of Fact #2*, above, may be established against petitioner.

¹ Medicare is a different program than MA (MA is also known as Medicaid).

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 28th day of January, 2015

\sSean P. Maloney
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 28, 2015.

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