



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

MOP/162893

PRELIMINARY RECITALS

Pursuant to a petition filed December 24, 2014, under Wis. Stat., §49.45(5), to review a decision by the Grant County Dept. of Social Services to recover Medical Assistance (MA), a hearing was held on March 25, 2015, by telephone. Hearings set for January 22 and February 19, 2015 were rescheduled at the petitioner's request.

The issue for determination is whether petitioner was overpaid BadgerCare Plus (BC+) MA because she failed to report an increase in income.

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

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

By: Redact
Grant County Dept. of Social Services
P.O. Box 447
Lancaster, WI 53813

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # Redact) is a resident of Grant County.
2. In 2014 petitioner received BC+ for a four-person household. On December 18, 2013, the county informed her that BC+ would continue with no premiums based upon monthly gross income of \$2,436.43. She was told that she should report an increase in income if monthly income rose to be above \$2,552.

3. In late 2014 the agency received a state wage match that showed petitioner's quarterly income to be higher than expected. Petitioner's monthly household income rose above \$2,552 in January, 2014. The county obtained petitioner's actual income from 2014.
4. By a notice dated December 11, 2014, the county informed petitioner that she was overpaid \$261 in BC+ from January 1 through March 31, 2014, claim no. Redact. See Exhibit 2, pages 8-10 for the calculations. The overpayment amount consisted of premiums that would have been paid based upon the changes.
5. Prior to the hearing the county worker recalculated the overpayment. She eliminated the months of January and February, 2014 from the claim because petitioner would not have had to report the increased income until February 10, 2014. The overpayment was reduced to \$80 for only the month of March, 2014.

### 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 Handbook, App. 28.4.2 provides that if an overpayment is caused by a failure to report increased income, and the household would have remained eligible for BC+ but with increased premiums, the overpayment is the difference between the premiums originally paid and the correct premiums based on the actual income. In this case no premiums were paid originally, so the overpayment is the full amount of the premium that should have been paid.

With petitioner's earned income rising about the reporting requirement in January, 2014, FS policy required petitioner to report the increase by February 10, 2014. Thus the overpayment would not occur until March, 2014. See BC+ Handbook, App. 28.4.1, "Failure to Report."

The result is that petitioner was overpaid \$80 in BC+ in March, 2014. I checked the final calculations and they are correct. I will dismiss the appeal because the changes already have been made by Ms. Redact.

**CONCLUSIONS OF LAW**

The county correctly determined that petitioner was overpaid \$80 in BC+ in March, 2014 because she did not report an increase in 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 31st day of March, 2015

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\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 March 31, 2015.

Grant County Department of Social Services  
Public Assistance Collection Unit  
Division of Health Care Access and Accountability