



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of:

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MOP/162898

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 27, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the La Crosse County Department of Human Services [“County”] in regard to Medical Assistance [“MA”], a Hearing was held via telephone on February 3, 2015. The Hearing for this matter was held at the same time as the Hearing for the following 3 closely related matter concerning petitioner and his wife: FTI-162897; FTI-162899; and, MTI-162901.

The issue for determination is whether the following Claim can be established against petitioner for an MA overpayment: Claim Number [REDACTED] for the time period July 1, 2012 to February 28, 2013 in the amount of \$1,839.69.

There appeared at that time via telephone 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: Bob Uebele, ESS

La Crosse County Department of Human Services  
300 N. 4th Street  
PO Box 4002  
La Crosse, WI 54601

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) was a resident of Wisconsin but is now a resident of Minnesota.
2. The following Claim was established against petitioner for an overpayment of MA: Claim Number [REDACTED] for the time period July 1, 2012 to February 28, 2013 in the amount of \$1,839.69.
3. On May 24, 2012 petitioner reported income that was not correct (the income reported was too low); on July 27, 2012 petitioner's wife incorrectly reported that petitioner was not working.
4. The MA overpayment in *Findings of Fact* #2, above, resulted from the fact that petitioner failed to report his correct income; as a result petitioner was not charged the correct MA premium when he should have been.

### 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) (2013-14); 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.

In this case petitioner failed to report his correct income. As a result petitioner was not charged the correct MA premium when he should have been. This caused the MA overpayment listed in *Findings of Fact* #2, above.

Finally, it is noted that the County argues that petitioner failed to file his request for a Hearing in a timely manner. An appeal concerning MA is untimely if it is not received by DHA within 45 days of the date of the action being appealed. See, 42 C.F.R. § 431.221(d) (2012); Wis. Stat. § 49.45(5)(a) (2013-14); Wis. Admin. Code § DHS 104.01(5)(a)3. (December 2008); Wis. Admin. Code § HA 3.05(3) (February 2013); *BadgerCare Plus Eligibility Handbook* ["BC+ Handbook"] 29.2.; *Income Maintenance Manual* ["IMM"] 3.3.2. In this case, however, the County never produced a copy of the MA overpayment notice it sent to petitioner (although the County did produce a copy of the MA overpayment notice it sent to petitioner's wife). Therefore, it cannot be determined if petitioner failed to file his request for a Hearing in a timely manner.

**CONCLUSIONS OF LAW**

For the reasons discussed above, the following Claim can be established against petitioner for an MA overpayment: Claim Number [REDACTED] for the time period July 1, 2012 to February 28, 2013 in the amount of \$1,839.69.

**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 12th day of February, 2015

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\sSean P. Maloney  
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 12, 2015.

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