



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/162973

PRELIMINARY RECITALS

Pursuant to a petition filed December 30, 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 February 19, 2015, by telephone. The hearing was rescheduled from January 22, 2015 to allow the parties the opportunity to review new evidence presented by the petitioner. The record was held open an additional eight days to allow petitioner to respond to a final calculation; no response was received.

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

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Julie Friederick
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 # [REDACTED]) is a resident of Grant County.
2. In 2014 petitioner received BadgerCare Plus (BC+) MA for himself and his two children. Effective March 1, 2014, BC+ was continued after a review with no premium. Gross monthly income on which BC+ was based was \$1,368 from employment and unemployment

- compensation (UC). A notice dated March 10, 2014 informed petitioner that he should report if income rose above \$1,649.
3. Petitioner reported no income changes until October, 2014 when he reported that he was laid off.
 4. In November, 2014 the county received a state wage match showing employment income to be higher than budgeted in the second quarter of 2014. Actual wages were obtained.
 5. Petitioner's earned income in April, 2014 was \$1,073.74. Along with unearned income total April income was \$1,484.36.
 6. Petitioner's earned income in May was \$2,606.94. Monthly household income remained above \$1,649 through September, 2014.
 7. Using the actual income the worker determined that petitioner would have owed premiums totaling \$694 for the months of April through September, 2014. Petitioner was notified of the overpayment on December 12, 2014, claim no. [REDACTED].
 8. After the appeal was filed petitioner pointed out some discrepancies in the income caused by the confusing manner in which the employer's wage report was drafted. The worker re-determined the overpayment, and the result was that petitioner was overpaid \$781 in unpaid premiums for the period may through September, 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 premiums that should have been paid.

After reviewing the case, I find that the overpayment occurred with the exceptions of May and June, 2014. BC+ policy required petitioner to report the increase by June 10, 2014. See BC+ Handbook, App. 27.3. Thus BC+ premiums would not be affected until July, 2014, and the overpayment should be only for the months of July through September. See Handbook, App. 28.4.1. The overpayment for July through September is \$515 as the \$266 premiums calculated for May and June would not have been imposed if the increased income was reported by June 10.

CONCLUSIONS OF LAW

1. Petitioner was overpaid MA in 2014 because he failed to report increased income.
2. The overpayment began in July, 2014 because petitioner's income rose above the reporting threshold in May, 2014.

THEREFORE, it is

ORDERED

That the matter be remanded to the county with instructions to amend MA overpayment claim no. [REDACTED] to be \$515 for only the months of July through September, 2014. The county shall do so within 10 days of this decision.

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 2nd day of March, 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 March 2, 2015.

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