



FH
[REDACTED]

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

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/163115

PRELIMINARY RECITALS

Pursuant to a petition filed January 12, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Vilas County Department of Social Services [“County”] in regard to Medical Assistance [“MA”], a Hearing was held via telephone on February 19, 2015.

The issue for determination is whether the following 2 Claims may be established against petitioner for MA overpayments in the total amount of \$43,605.41 for the time period June 2012 to November 2013: Claim Number [REDACTED]; and, Claim Number [REDACTED].

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: Beulah Garcia, Resolution Coordinator
Vilas County Department of Social Services
330 Court Street
Eagle River, WI 54521

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Vilas County, Wisconsin.

2. The following 2 Claims were established against petitioner for overpayments of MA in the total amount of \$43,605.41 for the time period June 2012 to November 2013: Claim Number [REDACTED]; and, Claim Number [REDACTED].
3. During the time period of the overpayments in this matter petition filed to report when her group income exceeded the reporting threshold stated in notices that were sent to her.
4. The MA overpayment in *Findings of Fact* #2, above, resulted from the fact that petitioner failed to report her group income as required; as a result petitioner was granted MA benefits when she should not 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 income as required. Petitioner and her husband do not deny this. This caused the MA overpayments listed in *Findings of Fact* #2, above.

Petitioner and her husband testified that they did not know they had to report. However, the notices sent to them clearly stated: "If your household's total monthly income (before taxes) goes over [an exact specified amount], you must report it by the 10th of the next month. For example, if your income goes over the limit in June, you must report it by July 10th."

CONCLUSIONS OF LAW

For the reasons discussed above, the following Claims may be established against petitioner for MA overpayments in the total amount of \$43,605.41 for the time period June 2012 to November 2013: Claim Number [REDACTED]; and, Claim Number [REDACTED].

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 13th day of March, 2015

\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 March 13, 2015.

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