



FH  
[REDACTED]

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

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/163175

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed January 14, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Wood County Human Services - WI Rapids in regard to Medical Assistance, a hearing was held on February 16, 2015, at Hayward, Wisconsin.

The issue for determination is

There appeared at that time and place 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

Wood County Human Services - WI Rapids  
320 West Grand Avenue  
PO Box 8095  
Wisconsin Rapids, WI 54495-8095

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Sawyer County.
2. The department seeks to recover \$378 from the petitioner for unpaid premiums on BadgerCare Plus benefits she received from December 2013 through March 2014.

3. The petitioner's family received BadgerCare Plus. On June 21, 2013, the agency notified her that she must report within 10 days if her household's gross income exceeded \$2,943.75.
4. The petitioner's household income was \$3,600 in October 2013 and remained there or higher through April 2014.
5. From December 2013 through February 2014 the petitioner paid \$100 per month for her household's BadgerCare Plus premium. She did not pay any premium in March 2014.
6. If the petitioner had reported her household's increased income by November 10, 2013, her monthly BadgerCare Plus premium would have been \$168 in December 2013 and \$170 from January through March 2014.
7. The petitioner did not cancel her BadgerCare Plus benefits before March 2014.

### DISCUSSION

The department may recover any overpayment of medical assistance that occurs because a "recipient" or anyone "responsible for giving information on the recipient's behalf" fails "to report any change in the recipient's financial...situation...that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements." Wis. Stat. § 49.471(10)(b)3; *BadgerCare Plus Handbook*, 19.1. The county agency seeks to recover \$378 from the petitioner because it contends that she failed to report an increase in income that would have raised her premiums from December 2013 through March 2014. She contends that she should not be responsible for any payment due in March 2014 because her family was covered by private insurance that month and she had notified the BadgerCare Plus program that she wished to end her coverage from that program. She does not challenge the agency's determination of her income or the amount of the overpayment from December through February.

All medical assistance recipients must report changes to the agency within 10 days. Wis. Admin. Code, § DHS § 104.02(6). On June 21, 2013, the agency notified the petitioner that she must report if her household's gross income exceeded \$2,943.75. Her household's income exceeded this amount in October 2013. She should have reported the increase by November 10, 2013, which would have first affected her monthly premium in December 2013. The agency contends, and the petitioner does not dispute, that her premium would have been \$168 in December 2013 and \$170 from January through March 2014. She paid a premium of \$100 each month from December 2013 through February 2014; she did not pay a premium in March 2014 because she no longer wished to be covered by the program. The agency calculated the overpayment by subtracting the total amount she paid in premiums from the total amount it claims she owed for the period. The sole question is whether she owed a premium for March 2014. This depends upon whether she notified the program in time for it to stop providing benefits to her that month.

The preponderance of the evidence indicates that she did not. She testified that she no longer needed BadgerCare Plus because her husband's new job provided insurance. When her March BadgerCare bill came, she returned it, writing "cancelled" on it and indicating that she no longer needed the program. Her testimony was believable, but it is not enough for her to prevail. She did not remember exactly when she sent the bill back and no longer has documentation, which is understandable given the months that passed between then and when the agency brought this action. Her best recollection is that she tried to cancel benefits late in February, although she concedes it could have happened in March. Beulah Garcia, who appeared for the agency, testified that bills for premiums are due on the 10<sup>th</sup> of the month for which coverage applies and are sent out earlier the same month. Thus, if the petitioner was seeking to cancel her coverage by writing that on her March bill, it is unlikely that she did that before March. This means that the program would have already made a per capita payment on her behalf and provided coverage for her for that month. Because she received coverage that month, she must pay for it. Therefore, the department correctly seeks to recover the \$378 difference between what she owes and what she paid in BadgerCare Plus premiums for December 2013 through March 2014.

**CONCLUSIONS OF LAW**

The department correctly determined that the petitioner must repay an overpayment of BadgerCare Plus that occurred because she did not report a change of income.

**THEREFORE, it is**

**ORDERED**

The petitioner's appeal is 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

---

\sMichael D. O'Brien  
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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 13, 2015.

Wood County Human Services - WI Rapids  
Division of Health Care Access and Accountability