



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MOP/163239

PRELIMINARY RECITALS

Pursuant to a petition filed January 16, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane County Department of Human Services in regard to Medical Assistance, a hearing was held on March 03, 2015, at Baraboo, Wisconsin.

The issue for determination is whether the agency erred in its determination of the overpayments in claims [REDACTED] for \$371 (child: [REDACTED]), and [REDACTED] for \$1,966 (adult) = total \$2,337.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: [REDACTED]
Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sauk County.
2. Petitioner lives with [REDACTED]. [REDACTED] was case head of an MA case.

3. Petitioner has a child in common with [REDACTED]. [REDACTED] also has a child of her own. The four live together and file taxes as a family of 4. The child received MA from January 2014 onward.
4. The agency determined that the household exceeded the income reporting requirement of \$3,630.63 in January 2014.
5. In March 2014, petitioner applied for MA. He had begun a job at [REDACTED] but this income was not reported. He was enrolled in MA and received benefits effective 4/1/14.
6. The household exceeded the MAGI income limit of \$1,987.50 for BC+ for a family of 4 from April 2014 through September 2014. Petitioner was not eligible under MAGI rules due to his income which had not been reported.
7. The agency calculated an overpayment for each child and sent notice.
8. Petitioner appealed.

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...(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.**

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 agency argues that the overpayment for the child was caused when the household went over the reporting requirement of \$3,630.63 in January 2014. In that month, the household income was \$3,684. The agency argues that this was to be reported by February 10th and would have affected the March MA benefits and required a premium be paid for the child's eligibility. The agency calculated the overpayments by taking the *lower* of the benefits paid in each overpayment month for the child, or the premium that should have been paid in each overpayment month. This is supported by the documents submitted by the agency. The agency also provides income documents reflecting that the family's income went even higher in the following months of the overpayment period after March 2014. These documents include a wage report for [REDACTED] at [REDACTED] [REDACTED] [REDACTED]'s income alone was over \$4,700 in July 2014.

Petitioner continued receiving MA under MAGI income rules as no income had been reported for him. Petitioner applied for MA on 3/26/14 and began receiving MA on 4/1/14. Thus, any benefits he received were overpaid.

Petitioner did not argue that he was not overpaid with regard to the child's overpayment. Petitioner concedes that the payment of the premiums at this point is fair and correct.

With regard to the claim involving himself, petitioner argues that it does not make sense that he was notified that he was eligible for MA and was able to pay for medical services for months before the agency figured out that he was actually financially ineligible. He states that his income varies from month to month and he does not know why his eligibility could not have been denied at the doctor's office at each visit. He does not think that is fair. But, petitioner fails to grasp that the problem was that his income was not reported. His income fluctuates. He applied for MA in a month when he was laid off and had no earned income. That is why no income was budgeted other than unemployment. But, As of April, petitioner's income climbed and he became ineligible. It was his obligation to report and increase in income, not the responsibility of the agency to check his income each month with his employer. This is why MA enrollees are required and notified in writing to report changes in income.

CONCLUSIONS OF LAW

The agency did not err in its determination of the overpayments in claims [REDACTED] for \$371, and [REDACTED] for \$1,966.

THEREFORE, it is

ORDERED

This 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 17th day of April, 2015

\sJohn P. Tedesco
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 April 17, 2015.

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