



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

MOP/163243

PRELIMINARY RECITALS

Pursuant to a petition filed January 13, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Sawyer County Human Services in regard to Medical Assistance, a hearing was held on March 19, 2015, at Hayward, Wisconsin. A hearing scheduled for February 18, 2015, was rescheduled at the petitioner's request.

The issue for determination is whether the petitioner's appeal is timely.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

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

By: Redact

Sawyer County Human Services
10610 Main Street
PO Box 730
Hayward, WI 54843

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # Redact) is a resident of Sawyer County.

2. On November 25, 2014, the county agency sent two notices to the petitioner informing her that she was overpaid medical assistance by a combined amount of \$4,779.34. Both notices informed her that she must file an appeal by January 9, 2015.
3. The petitioner appealed the overpayments on January 13, 2015.

### DISCUSSION

Medical assistance recipients have 45 to appeal a negative decision. Wis. Admin. Code § HA 3.05(3). The county notified the petitioner through two separate appeals, both dated November 25, 2014, that she had been overpaid medical assistance. The notices told her that she had until January 9, 2015, to appeal. She filed her appeal on January 13, 2015, or 49 days later. If an appeal is filed late, the Division of Hearings and Appeals loses its legal authority to consider the matter and must dismiss it. Therefore, I cannot consider the merits of her appeal and must uphold the overpayment. I do note, nevertheless, that the agency should still reduce the overpayment to the amount it agreed was correct, \$3,648.44.

### CONCLUSIONS OF LAW

The Division of Hearings and Appeals cannot consider the petitioner's appeal because it is untimely.

**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 9th day of April, 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 April 9, 2015.

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