



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/163290

PRELIMINARY RECITALS

Pursuant to a petition filed January 14, 2015, under Wis. Stat., §49.45(5), to review a decision by the Northern IM Consortium to recover Medical Assistance (MA), a hearing was held on February 11, 2015, by telephone.

The issue for determination is whether the agency correctly determined a BadgerCare Plus (BC+) MA overpayment.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Beulah Garcia
Northern IM Consortium
10610 Main Street
Hayward, WI 54843

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Forest County.
2. Petitioner received BC+ for her, her husband, and their son in 2013 and 2014. On March 20, 2013, the agency sent petitioner a notice informing her that the adults were eligible with a \$67 premium based upon \$2,390.99 earned income from petitioner's husband's employment. The notice stated that if income rose above \$2,441.25 petitioner should report the change.
3. Petitioner's husband earned over \$4,000 in March, 2013, \$3,533 in April, and \$3,625 in May.

4. Petitioner submitted two pay stubs from her husband's employer in June, 2013. The gross income on both pay stubs were below \$1,000. On July 12, 2013, the agency notified petitioner that beginning August 1 the household would have a \$98 premium based upon \$2,448.77 earned income. The notice stated that petitioner should report if income went above \$3,010.
5. The agency eventually received a state wage match showing petitioner's husband's income to be substantially higher than the amount being budgeted. The agency obtained the actual income amounts from petitioner's husband's employer. The agency then calculated the MA eligibility based upon the actual income and determined that the household would have had higher premiums than were actually paid.
6. By two notices dated December 15, 2014, the agency informed petitioner that she was overpaid a total of \$3,136 in MA from May, 2013 through March 31, 2014 due to premiums being lower than they should have been, claim nos. [REDACTED] and [REDACTED].
7. After the hearing was filed Ms. Garcia discovered that petitioner was not given credit for premiums that she paid. Petitioner paid premiums through March, 2014 in a total of \$973. Therefore the overpayment is reduced from \$3,136 to \$2,163 (\$3,136 minus \$973).

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.

If an overpayment is results from unreported or underreported income, the Handbook provides at App. 28.4.2: "If the case is still eligible for BC+ for the timeframe in question, but there was an increase in the premium, recover the difference between the premiums paid and the amount owed for each month in question."

In this case petitioner underreported her husband's income. She did not do so intentionally because she showed recent paystubs, but the problem is that the paystubs were for periods when income was lower. Petitioner was notified in the two notices that she needed to report when income increased, and she did not. It is unusual that petitioner provided two paystubs in June, 2013, but the ones she provided again

showed lower income than her husband was earning at other times, so the agency remained unaware of the higher income amounts.

As noted, petitioner initially was not given credit for the premiums she paid. All paid premiums are now accounted for, and the overpayment was reduced by \$973.

Petitioner testified that she regularly sent in her husband's paystubs. I reviewed the record, and the only submissions were the ones made in March and June, 2013. The next submissions were in April, 2014, after the overpayment period.

I have reviewed the overpayment calculations and find them to be correct. I thus will affirm the overpayment claim with the exception that it should be reduced by the premiums already paid.

CONCLUSIONS OF LAW

1. Petitioner was overpaid BC+ because she failed to report increases in her husband's income that would have affected the amounts of BC+ premiums owed by the household.
2. The agency correctly determined the amounts of the premiums that would have been owed based upon correct income, but it initially did not credit petitioner for premiums that she paid.

THEREFORE, it is

ORDERED

That the matter be remanded to the agency with instructions to reduce petitioner's MA overpayment from \$3,136 to \$2,163 to account for premiums that she paid. The agency shall do so within 10 days of this decision if it had not already done so. In all other respects the petition for review 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 16th day of February, 2015

\sBrian C. Schneider
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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on February 16, 2015.

Wood County Human Services - WI Rapids
Public Assistance Collection Unit
Division of Health Care Access and Accountability