



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redacted case information

DECISION

MOP/163688

PRELIMINARY RECITALS

Pursuant to a petition filed February 4, 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 19, 2015, by telephone.

The issue for determination is whether petitioner's household was overpaid MA because increased income was not reported.

PARTIES IN INTEREST:

Petitioner:

Redacted petitioner information

Respondent:

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

By: Redacted
Northern IM Consortium
10610 Main St., Suite 224
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 Wood County.
2. Petitioner, his wife, and their son received BadgerCare Plus (BC+) MA in 2012. In June, 2012, petitioner's wife reported a new job at Redacted; verification showed expected income to be \$550 per month.

3. On August 3, 2012, the agency informed petitioner that BC+ would continue with no premium based upon \$1,683 per month income earned by the two adults. The notice informed petitioner that if income rose above \$2,115 petitioner should report the increase.
4. In 2014 the agency discovered through a state wage match that household income was substantially higher in the third quarter, 2012 than was budgeted. The agency obtained the couple's actual income figures from the employer. It determined that in August, 2012, earned income was \$2,477.76. Income thereafter varied between \$2,585 monthly to \$3,203.
5. The agency determined that had the increased income been reported timely, the adults would have been responsible for BC+ premiums beginning October 1, 2012. Premiums would have been owed for the months of October, 2012 through February, 2013 in the total amount of \$690.
6. By notices dated January 5, 2015, the agency informed petitioner and his wife that they were overpaid \$690 in MA payments from October, 2012 through February, 2013, claim no. Redact.

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.

The Handbook, App. 28.4.2 provides that if an overpayment is caused by a failure to report increased income, and the household would have remained eligible for BC+ but with increased premiums, the overpayment is the difference between the premiums originally paid and the correct premiums based on the actual income. In this case no premiums were paid originally, so the overpayment is the full amount of the premiums that should have been paid.

Petitioner's wife testified that she did not understand the reporting requirement. The law does not require the failure to report to be intentional. Simple errors can lead to overpayments as well, and in this case the agency classified the claim as one of client error, not fraud.

I have reviewed the calculations and they are correct. The agency correctly determined the BC+ overpayment.

CONCLUSIONS OF LAW

Petitioner's household was overpaid \$690 in BC+ because it failed to report an increase in income as required by Department policy.

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 23rd day of February, 2015

\sBrian C. Schneider
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 February 23, 2015.

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