



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MOP/163785

PRELIMINARY RECITALS

Pursuant to a petition filed February 09, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the St. Croix County Health & Human Services in regard to Medical Assistance, a hearing was held on April 17, 2015, at New Richmond, Wisconsin.

The issue for determination is whether the county agency correctly determined that the petitioner must repay an overpayment of medical assistance.

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:

St. Croix County Health & Human Services
1752 Dorset Lane
New Richmond, WI 54017-1063

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES #) is a resident of St. Croix County.
2. The county agency seeks to recover \$5,263.55 in BadgerCare Plus benefits provided to the petitioner and her son from July 2013 through March 2014.

3. The county agency notified the petitioner on March 18, 2013, that she must report within 10 days if her income exceeded \$1,292.50.
4. The petitioner did not report that her income exceeded \$1,292.50 by July 10, 2013.
5. The petitioner had the following income from June 2013 through March 2014:

a. June 2013:	\$1,684.67
b. July 2013:	\$2,851.34
c. August 2013:	\$7,851.34
d. September 2013:	\$2,851.34
e. October 2013:	\$3,229.46
f. November 2013:	\$4,786.48
g. December 2013:	\$3,931.06
h. January 2014:	\$2,851.34
i. February 2014:	\$4,095.34
j. March 2014:	\$3,739.32
6. The BadgerCare Plus program paid the following capitation fees on behalf of the petitioner from August 2013 through March 2014:

a. August 2013:	\$234
b. September 2013:	\$271.99
c. October 2013:	\$343.24
d. November 2013:	\$295.25
e. December 2013:	\$278.22
f. January 2014:	\$233.64
g. February 2014:	\$497.90
h. March 2014:	\$149.42
7. If the petitioner's actual income had been used to determine her BadgerCare Plus benefits, she would have been required to pay the following premiums for her child from August 2013 through March 2014:

a. August 2013:	\$746
b. September 2013:	\$200
c. October 2013:	\$265
d. November 2013:	\$455
e. December 2013:	\$374
f. January 2014:	\$191
g. February 2014:	\$390
h. March 2014:	\$333

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 \$5,263.55 from the petitioner because it contends that she failed to report an increase in income that would have left her ineligible and caused her child to have a premium from August 2013 through March 2014.

Before April 2014, BadgerCare Plus provided medical assistance to children under 19 and their parents. Wis. Stat., § 49.471. Adults usually could not receive benefits if their household's income exceeded 200% of the federal poverty level. This limit generally did not apply to children, but a premium had to be paid

for children if the household's income exceeded 200% of the federal poverty level. Wis. Stat. § 49.471(4)(a). Those premiums increased as household income increased. All medical assistance recipients must report changes to the agency within 10 days. Wis. Admin. Code, § DHS § 104.02(6). On March 18, 2013, the county agency notified the petitioner that she must report within 10 days if her income exceeded \$1,292.50. Her household's income exceeded this amount in June 2013. She should have reported the increase by July 10, 2013, which would have first affected her benefits in August 2013.

BadgerCare Plus overpayments are calculated by adding all medical expenses and capitation rate fees paid on behalf of the household, adding any premiums the household owed, and then subtracting any premiums the household has paid while incorrectly receiving benefits. The amount of the overpayment for each month depends upon the actual amount of income earned during that month *BadgerCare Plus Handbook*, § 28.4.2. At the time of the overpayment, monthly premiums for children ranged from \$10 for households with income just over 200% of the federal poverty level to \$97.53 for households with income over 300% of the federal poverty level. *BadgerCare Plus Handbook*, § 48.1.1. (Releases 13-1 and 13-2). The agency's determination of the petitioner's monthly income and the monthly capitation fees and premiums that went into the calculation of her overpayment are found in *Findings of Fact Nos. 5-7* of this decision.

I find no error in these calculations, and the petitioner does not challenge them. Rather, she points out that she lost track of her income and that her child did not use the program because his father's insurance covered him. There is no allegation that the petitioner committed any fraud, but she nevertheless failed to report an increase in income that affected her benefits. As for her son, the agency's notices list all of the people covered by the program. She may have overlooked this, but I have no authority to reduce the overpayment because of any such lapse.

CONCLUSIONS OF LAW

The petitioner must repay an overpayment of BadgerCare Plus that occurred because she failed to notify the county agency that her income had increased.

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 11th day of May, 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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on May 11, 2015.

St. Croix County Health & Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability