



FH  
[REDACTED]

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

---

In the Matter of:

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MOP/164227

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed February 26, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Rock County Department of Social Services [“County”] in regard to Medical Assistance [“MA”], a Hearing was held via telephone on April 8, 2015. The Hearing for this matter was held at the same time as the Hearing for the following closely related matter concerning petitioner’s husband: MOP-164228.

The issue for determination is the following Claim can be established against petitioner for alleged MA overpayments in the total amount of \$961.54 covering the time period October 1, 2013 to February 28, 2014: Claim # [REDACTED].

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

BY: Laura Middleton, ESS Overpayment Specialist  
Rock County Department of Social Services  
1900 Center Avenue  
PO Box 1649  
Janesville, WI 53546

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County, Wisconsin.
2. The County established the following Claim against petitioner for alleged MA overpayments in the total amount of \$961.54 covering the time period October 1, 2013 to February 28, 2014: Claim # [REDACTED].
3. The MA overpayment Claim detailed in *Findings of Fact* #2, above, alleged resulted from the failure to report income.
4. In April 2013 petitioner obtained health insurance through her employer; at that time she reported this to the County and her MA should have stopped; for unknown reasons her MA was continued.

### DISCUSSION

An overpayment of MA benefits may be recovered only in the following 3 circumstances:

- A. A misstatement or omission of fact by a person supplying information in an application for benefits;
- B. The failure of an MA or BadgerCare 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; or,
- C. The failure of an MA or BadgerCare 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.

Wis. Stat. § 49.497(1)(a) (2013-14); See also, *Medicaid Eligibility Handbook* ["MEH"] 22.2.1; BEM/DWS Operations Memo, No: 05-39, Date: 09/29/2005; and, BEM/DWS Operations Memo, No: 06-10, Date: 02/09/2006.

In this case in April 2013 petitioner obtained health insurance through her employer and reported this to the County. Petitioner's testimony in this regard is credible.<sup>1</sup> Thus, her MA should have stopped at that time but for unknown reasons her MA was continued. Therefore, the overpayment Claim cannot be sustained and must be reversed.

### CONCLUSIONS OF LAW

For the reasons discussed above, the County may not establish the following Claim against petitioner for alleged MA overpayments in the total amount of \$961.54 covering the time period October 1, 2013 to February 28, 2014: Claim # [REDACTED].

---

<sup>1</sup> Petitioner writes: "I have been covered by private insurance through my employer since April 2013. I called to report this change once when I received this coverage, and again when I realized that I was still covered by BadgerCare." This is corroborated by petitioner's April 11, 2013 paycheck stub and by a *Case Comment* dated January 6, 2014.

THEREFORE, it is

**ORDERED**

That this matter be REMANDED to the County, that, within 10 days of the date of this *Decision*, the County take all necessary steps to REVERSE the following Claim that was established against petitioner for alleged MA overpayments in the total amount of \$961.54 covering the time period October 1, 2013 to February 28, 2014: Claim # [REDACTED].

**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 28th day of April, 2015

---

\sSean P. Maloney  
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 28, 2015.

Rock County Department of Social Services  
Public Assistance Collection Unit  
Division of Health Care Access and Accountability