



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

Redact

DECISION

MOP/165217

PRELIMINARY RECITALS

Pursuant to a petition filed April 7, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services ["MiLES"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on May 19, 2015. At petitioner's request a Hearing scheduled for April 28, 2015 was rescheduled. The Hearing for this matter was held at the same time as the Hearing for the following 3 closely related matters: FOP-165212; FOP-165216; and, MOP-165214.

The issue for determination is the following 6 Claims can be established against petitioner for MA overpayments for the time period June 1, 2012 to February 28, 2015 in the total amount of \$17,772.68:

- (I) Claim Number Redact; June 1, 2012 to April 30, 2013; \$5,079.02;
(II) Claim Number Redact; June 1, 2012 to April 30, 2013; \$780.24;
(III) Claim Number Redact; October 1, 2013 to February 28, 2014; \$6,209.60;
(IV) Claim Number Redact; October 1, 2013 to February 28, 2014; \$445.12;
(V) Claim Number Redact; December 1, 2014 to February 28, 2015; \$5,063.64; and,
(VI) Claim Number Redact; December 1, 2014 to February 28, 2015; \$195.06.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

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

BY: Redact, HSPC
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:  
 Sean P. Maloney  
 Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (CARES # Redact) is a resident of Milwaukee County, Wisconsin.
2. MiLES established the following 8 Claims against petitioner for overpayments of MA for the time period June 1, 2012 to February 28, 2015 in the total amount of \$17,772.68:
  - (I) Claim Number Redact; June 1, 2012 to April 30, 2013; \$5,079.02;
  - (II) Claim Number Redact; June 1, 2012 to April 30, 2013; \$780.24;
  - (III) Claim Number Redact; October 1, 2013 to February 28, 2014; \$6,209.60;
  - (IV) Claim Number Redact; October 1, 2013 to February 28, 2014; \$445.12;
  - (V) Claim Number Redact; December 1, 2014 to February 28, 2015; \$5,063.64; and,
  - (VI) Claim Number Redact; December 1, 2014 to February 28, 2015; \$195.06.
3. Petitioner's household (petitioner married his wife in April 2012) had earned income which was not reported during the time periods in question.
4. The MA overpayments in *Findings of Fact #2*, above, resulted from the fact that the entire income of petitioner's household was not budgeted when calculating MA eligibility during the time periods in question due to the income not being reported.

### 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 petitioner's household failed to report income. This caused the MA overpayments listed in *Findings of Fact #2*, above.

Petitioner's wife testified that in February 2012 she reported her household income. Her testimony in this regard is not credible. First, she testified that she was not sure of the exact date she reported. Second, she

did not testify as to what income she reported. Third, there is no record that she ever reported income in February 2012. Additionally, the failure to report income involves many months other than February 2012. Therefore, the above overpayments exist and petitioner must repay them.

Finally, petitioner argues that the overpayments were not calculated correctly because there is a required 30-day time period between when an increase in income is reported and the time it can be counted for MA eligibility purposes. This is not correct. There is no such required 30-day time period. Wis. Admin. Code § DHS 102.04(3)(b) (December 2008); See also, MEH 12.1; *BadgerCare Plus Eligibility Handbook* 27.3 & 27.4. An MA member is responsible for notifying his or her MA agency of changes within 10 days of the occurrence. An overpayment occurs if the change would have adversely affected eligibility benefits or the post eligibility contribution amount (cost share, patient liability). See, Wis. Admin. Code §§ DHS 102.01(6) & 104.02(6) (December 2008); MEH 22.2.1.1.1.

### CONCLUSIONS OF LAW

For the reasons discussed above, petitioner is liable for the MA overpayments detailed in *Findings of Fact* #2, above, and must repay them.

**NOW, 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 27th day of May, 2015

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\sSean P. Maloney  
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 May 27, 2015.

Milwaukee Enrollment Services  
Public Assistance Collection Unit  
Division of Health Care Access and Accountability