



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

MOP/165493

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**PRELIMINARY RECITALS**

Pursuant to a petition filed April 16, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Outagamie County Department of Human Services in regard to Medical Assistance, a hearing was held on May 12, 2015, at Appleton, Wisconsin.

The issue for determination is whether Petitioner's Medicaid household was overissued BadgerCare+ Medicaid benefits.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

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

By: Luisa Mcky

Outagamie County Department of Human Services  
401 S. Elm Street  
Appleton, WI 54911-5985

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

*This hearing was combined with a hearing for Petitioner's spouse; nonetheless, a separate decision is required though the two decisions are virtually identical.*

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Outagamie County.
2. Petitioner was sent two notices of over payment of health care benefits, both dated March 6, 2015, which together informed Petitioner that she and her husband's BadgerCare+ Medicaid group had been overissued BadgerCare+ Medicaid benefits in the amount of \$4819 for the period of May 1, 2011 through December 31, 2011.

3. Petitioner began employment in March 2011 and had gross income in excess of \$4000 per month. This was not reported to the county economic support agency.
4. Petitioner's household size was 4 – Petitioner, spouse and two children.
5. Petitioner was sent a notice dated February 7, 2011 that did indicate that gross income in excess of \$2389 had to be reported.
6. The reason for the payment alleged here was that household wages were not reported as required. That increase in income pushed household income over BadgerCare+ income eligibility or premium requirement limits for adults and the premium limits for the child.

### DISCUSSION

The Department may recover any overpayment of medical assistance that occurs because 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 [BadgerCare].
  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.
- Wis. Stat. § 49.497(1).*

All medical assistance recipients must report changes to the agency within 10 days. *Wis. Admin. Code, § DHS § 104.02(6)*. At the time of the overpayment involved here those receiving BadgerCare Plus have to report changes in income must be reported when the income reached any of the following levels:

- 100% FPL
- 150% FPL
- 200% FPL
- 250% FPL
- 300% FPL

*BadgerCare+ Eligibility Handbook (BEH), § 27.3 - release 7-01, effective February 1, 2008.*

While the February 7, 2011 notice is somewhat vague as to whether it applied to FoodShare, BadgerCare+ or both, the problem for Petitioner here is there was no report at all.

Eligibility and premium requirements depend upon total household income. *See Wis. Stat. § 49.471(1)(f)*. During the period of the alleged overpayment, adults generally could not receive benefits if their household's income exceeded 200% of the federal poverty level. This limit generally did not apply to children. *Wis. Stat. § 49.471(4)(a)*. However, adults in households with income that exceeded 150% of the FPL prior to July 2012 had to pay a premium. Premiums were not assessed for children until household income exceeded 200% of the Federal Poverty Level. *Wis. Stat. § 49.471(10)(b); BadgerCare Plus Handbook, 19.1; release 7-01, effective 2/1/08.*

During the time period involved here, 150% of the Federal Poverty level for a group of 4 was \$2610.14 and 200% was \$3925.00. *See Operations Memo 11-04, effective February 1, 2011 at page 6; found at <https://www.dhs.wisconsin.gov/dhcaa/memos/11-04amended.pdf>.*

There is an overpayment here. The obligation to report income is noted above and Petitioner did not make the required report leading to a payment of benefits in excess of what Petitioner's household was eligible

for. Premiums were paid by the State for periods in which there was no adult eligibility, some medical costs were also paid for by the State for periods where there was no eligibility and premiums for children would have been higher.

Finally, I note that liable parties for BadgerCare+ overpayments include adult group member and parents but not children. *BEH*, §28.4.4.

**CONCLUSIONS OF LAW**

That Petitioner and/or her spouse failed to report required increases in income thereby creating an overpayment of \$4819.00 in BadgerCare+ Medicaid benefits during the period of May 1, 2011 through December 2011.

**THEREFORE, it is** **ORDERED**

That this 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 Milwaukee,  
Wisconsin, this 10th day of July, 2015

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\sDavid D. Fleming  
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 July 10, 2015.

Outagamie County Department of Human Services  
Public Assistance Collection Unit  
Division of Health Care Access and Accountability