



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/166139

PRELIMINARY RECITALS

Pursuant to a petition filed May 18, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Washington County Department of Social Services in regard to Medical Assistance, a hearing was held on June 11, 2015, at West Bend, Wisconsin.

The issue for determination is whether the agency correctly established a BadgerCare (BC) overpayment in the amount of \$4,121.99 for June 2013 through December 31, 2013, and from June 1, 2014 through July 31, 2014.

There appeared at that time and place 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: Tony Gehring

Washington County Department of Social Services
333 E. Washington Street
Suite 3100
West Bend, WI 53095

ADMINISTRATIVE LAW JUDGE:

Corinne Balter

Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Washington County. In 2013, and from June 1, 2014 through July 31, 2014, the petitioner was a household of three consisting of herself, her husband, and their child.

2. On December 27, 2012 the petitioner applied for BadgerCare (BC) benefits for her family. The family was eligible, and began receiving these benefits.
3. On February 28, 2013 the agency sent the petitioner a notice. The notice specifically stated that if the household's monthly gross income exceeded \$2,069.00 the household had an obligation to report that income by the 10th day of the following month.
4. The petitioner's husband is a seasonal worker. He was laid off in the beginning winter months of 2013. In April 2013 he returned to work and also received his final unemployment payment. The family's gross income exceeded \$2,069.00 in April 2013. The family did not report this increase in income.
5. The family's gross income was as follows: \$3,282.31 in June 2013, \$3,571.41 in July 2013, \$5,051.25 in August 2013, \$3,883.14 in September 2013, \$4,285.83 in October 2013, \$3,443.86 in November 2013, and \$3,474.81 in December 2013.
6. The net paid Medicaid and net capitation rate paid by the State for all family members' BC coverage was \$4,062.99 between June 1, 2013 and December 31, 2013.
7. Beginning in January 2014 the family was again eligible for BC benefits. The petitioner's husband was again not working during the winter months.
8. On February 17, 2014 the agency sent the petitioner a notice stating that she must report when the household's gross income exceeds \$2,193.40. The notice further stated that she had until the 10th day the following month to report that change. The household's gross income exceeded this amount in April 2014. The family did not report this increase in income.
9. In June and July 2014 the petitioner's son had BC benefits, however, based on the family's gross income, he was eligible for those benefits with a premium. The premium for those two months was \$59.00.

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 MA Handbook, Appendix 6.2.1.1. The overpayment must be caused by the client's error. Overpayments caused by agency error are not recoverable.

In this case the petitioner does not dispute the overpayment or the amount of the overpayment. Rather the petitioner appealed because it was “not [their] intention to mislead anyone.” At the hearing the petitioner stated that she did not realize that she had to report that her husband returned to work. The agency found the petitioner credible, and stated that the overpayment is due to client error. The agency agreed with the petitioner that this was simply a mistake or oversight by the family. Regardless, the family had an obligation to report an increase in income and failed to report this information to the agency. In addition, even though it was a mistake, the petitioner nonetheless admits that this was the family’s fault, and not the agency’s fault.

I further note that I reviewed the submitted exhibits regarding the petitioner’s income and net paid Medicaid and net capitation rate for this overpayment period. The agency’s calculation of this overpayment is correct. I further note that the agency correctly calculated the premium due for the petitioner’s son in June and July 2014.

CONCLUSIONS OF LAW

The agency correctly established a BC overpayment in the amount of \$4,121.99 for June 2013 through December 31, 2013, and from June 1, 2014 through July 31, 2014.

THEREFORE, it is

ORDERED

That the petition 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 12th day of June, 2015

\sCorinne Balter
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 June 12, 2015.

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