



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

MOP/166386

**PRELIMINARY RECITALS**

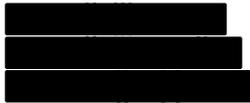
Pursuant to a petition filed April 18, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Outagamie County Department of Human Services in regard to Medical Assistance, a hearing was held on May 26, 2015, at Appleton, Wisconsin.

The issue for determination is whether Petitioner and his spouse were overissued Medicaid/BadgerCare+ benefits.

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: Megan Ryan

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 cases and decisions are very similar.*

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Outagamie County.

2. The agency sent Petitioner a notice that he had been overissued Medicaid and BadgerCare+ benefits in the amount of \$324.00 for the period from September 1, 2011 through November 30, 2011.
3. The basis for this Medicaid/BadgerCare+ overissuance claim was that income was not reported as required; more specifically, Petitioner’s income increased as hours worked increase and this was not reported.
4. Petitioner’s case was reviewed in June 2011. As part of that review the agency was informed that Petitioner was working fewer hours than he later actually worked.
5. Petitioner or his spouse completed a six month report form in December 2011. At that time a wage cross match was made for the 3<sup>rd</sup> and 4<sup>th</sup> quarters of 2011 and the agency discovered that income had exceeded reporting requirements.
6. Petitioner’s Medicaid group size is 6 – Petitioner, her spouse and their 4 children. 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+ premium requirement income limits for adults.
7. A July 15, 2011 Notice of Decision confirming benefits did inform Petitioner that income in excess of \$3200.00 had to be reported.

8. Petitioner income during the time relevant here was:

July 2011	\$4398.50
August 2011	\$3671.75
September 2011	\$3933.00
October 2011	\$4460.26
November 2011	\$3408.13
December 2011	\$1862.00

9. Petitioner’s spouse is employed and her income during the time involved here was as follows:

July 2011	\$-0-
August 2011	\$-0-
September 2011	\$389.50
October 2011	\$706.00
November 2011	\$792.50
December 2011	\$594.00.

**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 July 15, 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, for FoodShare or Medicaid.

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 6 was \$3748.75 and 200% was \$4998.33. *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. Had Petitioner reported the July 2011 income by August 10, 2011 it would have affected benefits as of September 2011 – the start of the overpayment alleged here. Petitioner's household income was certainly in excess of 150% of the FPL for a household of 6 from September through November 2011, thus the adults would have had to pay a premium had the income been reported. The overpayment here consists exclusively of those premiums for the adults in this BadgerCare+ group.

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 his spouse failed to report required increases in income thereby creating an overpayment of \$324.00 in BadgerCare+ Medicaid benefits during the period of September 1, 2011 through November 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 17th day of July, 2015

---

\sDavid D. Fleming  
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 July 17, 2015.

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