



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

MOP/166425

PRELIMINARY RECITALS

Pursuant to a petition filed June 4, 2015, under Wis. Stat., §49.45(5), to review a decision by Milwaukee Enrollment Services to recover Medical Assistance (MA), a hearing was held on June 24, 2015, by telephone.

The issue for determination is whether the agency correctly determined an MA overpayment.

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

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

By: Redact
Milwaukee Enrollment Services
1220 W. Vliet Street
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # Redact) is a resident of Milwaukee County.
2. Petitioner received FoodShare (FS) as a one-person household for a number of years. In March, 2014, petitioner contacted the agency to report no longer receiving unemployment compensation (UC), and he requested BadgerCare Plus (BC+) MA under the new law that extended benefits to adults without minor children. He did not report that he was working.
3. By a notice dated March 20, 2014, the agency informed petitioner that he was eligible for BC+ with no premium beginning April 1, 2014. The notice noted that the agency was budgeting no

income for petitioner, and it informed petitioner that he had to report to the agency if he received income in a month that totaled \$972.50.

4. In March, 2015 the agency found a state wage match showing that petitioner had earned income in 2014. The agency obtained petitioner's earnings records from **Redact** *fact* **Redact**, where petitioner worked during 2014.
5. Petitioner was working at **Redact** when he requested BC+ in March, 2014. He did not report the earned income at any time.
6. Using the **Redact** earning record, the agency determined that petitioner would have been ineligible for BC+ from May through October, 2014.
7. By a notice dated May 12, 2015, the agency informed petitioner that he was overpaid \$753.06 in MA payments from May 1 through October 31, 2014, claim no. **Redact**. The claim was for MA payments made on petitioner's behalf in the form of HMO capitation fees.

### 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 BC+ Handbook, Appendix 28.2. The overpayment must be caused by the client's error. Overpayments caused by agency error are not recoverable.

An overpayment is determined as follows: "If the case was ineligible for BC+, recover the amount of medical claims paid by the state and/or the capitation rate. Use the ForwardHealth interChange data from the Total Benefits Paid by Medicaid Report(s). Deduct any amount paid in premiums (for each month in which an overpayment occurred) from the overpayment amount." Handbook, App. 28.4.2.

Petitioner did not dispute his failure to report his earned income. He testified that he did not even know that he had MA, and that he never used it. Clearly the March 20, 2014 notice informed petitioner that he was eligible for BC+, and as noted, the claim was for capitation fees. It also is possible that if petitioner did go to a doctor, the clinic staff would have checked petitioner's record to see if he was eligible for MA, so he might have "used" MA without realizing it.

I conclude that the overpayment was determined correctly. The MA program made payments on petitioner's behalf during a period when he would have been ineligible had he reported his income as required.

**CONCLUSIONS OF LAW**

The agency correctly determined an MA overpayment resulting from petitioner failing to report earned income.

**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 26th day of June, 2015

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\sBrian C. Schneider  
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 26, 2015.

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