



FH

[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed June 30, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Public Assistance Collection Unit in regard to Medical Assistance, a telephone hearing was held on July 21, 2015.

The issue for determination is whether the respondent has correctly asserted an overpayment of Medical Assistance benefits to petitioner.

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: [REDACTED]
Public Assistance Collection Unit
PO Box 8938
Madison, WI 53708-8938

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner applied for Minnesota Medical Assistance benefits in September of 2014. At the time, petitioner had an open and ongoing Wisconsin Medical Assistance case. At the time of the Minnesota application, petitioner identified herself as a Minnesota resident.

3. Petitioner did not contact Wisconsin to report her move to Minnesota or close her Wisconsin MA case.
4. Petitioner's Wisconsin Medical Assistance (MA) benefits closed on May 31, 2015.

DISCUSSION

DHS may seek recovery of incorrect MA payments when a recipient engages in a misstatement or omission of fact to the MA program, which in turn gives rise to an MA overpayment:

49.497 Recovery of incorrect medical assistance payments. (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 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.
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 for the recipient's cost-sharing requirements.

(b) The department's right of recovery is against any Medical Assistance or Badger Care recipient to whom or on whose behalf the incorrect payment was made. The extent of recovery is limited to the amount of the benefits incorrectly granted ...

Wis. Stat. §49.497(1). See also, Medicaid Eligibility Handbook, 22.2.1, available at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm>.

Petitioner argues that she, in essence, fled to Minnesota as a victim of domestic abuse. She resided in a shelter for 3 or 4 weeks with her 5 children. She referred to the situation as one where she feared for her life.

The respondent testified that she was unaware of any exception to the overpayment liability based upon petitioner's testimony regarding her domestic situation. Unfortunately, I did not find any either.

The petitioner has in effect argued that the program standard is unfair and that the administrative law judge should grant her relief from the program requirements. While I certainly empathize with her situation, it is the long-standing policy of the Division of Hearings & Appeals, Work & Family Services Unit, that the Department's assigned administrative law judges do not possess equitable powers. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. Under law, she was required to report her relocation to Minnesota; no exception applies; and I am without any equitable powers to direct any remedy beyond the remedies available under law.



CONCLUSIONS OF LAW

The respondent correctly asserted an MA overpayment due to petitioner's failure to report her move to Minnesota.

THEREFORE, it is **ORDERED**

That petitioner's appeal 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 14th day of September, 2015

Peter McCombs
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 September 14, 2015.

Public Assistance Collection Unit
Public Assistance Collection Unit
Division of Health Care Access and Accountability