



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MOP/168182

PRELIMINARY RECITALS

Pursuant to a petition filed August 24, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the La Crosse County Department of Human Services in regard to Medical Assistance, a hearing was held on September 29, 2015, at Sparta, Wisconsin.

The issue for determination is whether petitioner is liable for a \$1,987.34 BC+ overpayment.

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: [Redacted]

La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Monroe County.
2. Petitioner was a BadgerCare Plus member of a one-person case. She had undergone a renewal for BC in September 2014 at which time she reported \$878 in monthly wages.
3. Petitioner had a reporting threshold of \$972.50.

4. Her income exceeded this amount from 12/1/14 to 7/31/15. For all months of the overpayment period, the gross income exceeded \$1,000. The State Wage Record indicated 2014 3rd Q wages or \$3,419, 4th Q wages of \$3,934, 2015 1st Q wages of \$3,566, and 2015 2nd Q wages of \$3,498.
5. Petitioner did not report any increases to her income.
6. The agency determined an overpayment of \$1,987.34 for e overpayment period of 12/1/14 to 7/31/15.
7. The agency sent notice of the overpayment on

DISCUSSION

BadgerCare Plus is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. The program's nonfinancial eligibility standards were broadened effective April 1, 2014, to include adults who do not have minor children in their home. Wis. Stat. § 49.45(23); 2013 Wisconsin Act 116, § 29, for effective date; *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1. The petitioner meets the nonfinancial eligibility tests for the program.

The petitioner must also pass an income test. The income limit for adults went lower effective April 1, 2014: an eligible adult cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1. The 100% FPL amount is \$980.83 monthly for a household of one. *Id.*, § 50.1.

The Department calculated monthly gross income for this household of over \$1,000. From gross income the Department is allowed to subtract only those income tax deductions lists on lines #23 through #35 of the federal 1040 tax return, subject to modifications listed at 42 C.F.R. § 435.603(e). No applicable deductions were identified here.

I was unable to find any error with the agency's calculations and petitioner did not identify any. Petitioner's argument relates to her health at the time and her claimed inability to track her income and her administrative responsibilities. While I sympathize with petitioner, there is no exemption in program rules for such conditions. Petitioner is still responsible for paying back what she received and should not have. Petitioner also faults the agency for not notifying her of the overpayment sooner. But, the responsibility was petitioner's to report the increase, not the agency's to monitor her income in real-time. But, petitioner did not assert that she did not receive benefits to which she was not entitled.

CONCLUSIONS OF LAW

The agency did not err in determination of the overpayment.

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 Madison,
Wisconsin, this 9th day of November, 2015

\sJohn P. Tedesco
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 November 9, 2015.

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