



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

MAC/168990

**PRELIMINARY RECITALS**

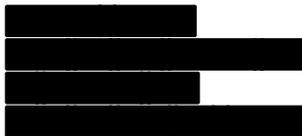
Pursuant to a petition filed September 23, 2015, under Wis. Stat. § 49.497(1m)(a), to review a decision by the Outagamie County Department of Human Services in regard to Medical Assistance, a hearing was held on October 15, 2015, at Fond Du Lac, Wisconsin.

The issue for determination is whether the Public Assistance Collection Unit (PACU) can compel payment of a public assistance debt.

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: Debbie DeBruin

Outagamie County Department of Human Services  
401 S. Elm Street  
Appleton, WI 54911-5985

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # ) is a resident of Fond Du Lac County.
2. On September 12, 2014 the agency sent the petitioner a Notice of Medical Assistance/BadgerCare/BadgerCare Plus Overpayment. The notice stated that under claim number

██████████ the petitioner was overpaid \$1,101.36 in medical benefits for the period from June 1, 2014 to July 31, 2014.

3. The agency sent the petitioner a repayment agreement. The petitioner completed the repayment agreement and began making payments on this debt.
4. He missed one payment around November of 2014. On December 2, 2014 the agency sent him his first dunning notice reminding him of this debt with a \$1,000 balance due. He was able to resume his payment plan and continue making monthly payments. He then missed a few months of payments. The agency sent him two more dunning notices on March 3, 2015 and April 2, 2015. At the time of those dunning notices there was a \$600 balance due on the debt.
5. The petitioner made a \$200 payment on April 10, 2015. He currently owes \$400 under this claim number, ██████████. He has made no additional payments after this April 10, 2015 payment.
6. On September 18, 2015 the agency sent the petitioner an Order to Compel Payment of Liability.
7. On September 28, 2015 the Division of Hearings and Appeals received the petitioner’s Request for Fair Hearing.

**DISCUSSION**

Wis. Stat., §49.497(1m)(a) provides that if, after notice of incorrect payment is made, a recipient who is liable for an incorrect payment fails to repay the incorrect payment or enter into, or comply with, an agreement for repayment than the State of Wisconsin may bring an action to enforce the liability or may issue an order to compel payment of the liability. In this case the department has issued an order to compel payment of the liability. Petitioner can appeal, but according to the law the only issues that can be addressed are whether she paid off the overpayment, or whether she has entered into a repayment agreement and complied with it.

There is no dispute that the petitioner entered into a repayment agreement, and that he has failed to comply with the terms of the repayment agreement. The petitioner sought to have a hearing because he is ██████████. He is currently at the ██████████ with a pending criminal case. He does not know what his sentence will be on his criminal case. His concern is that he will have to go to prison. While in prison, he will not be able to pay, and upon his release his credit will be ruined. I am not aware of any provision that allows a person to hold a public assistance debt in abeyance while he or she is ██████████. My determination is limited to whether he paid off the overpayment, or whether he has entered into a repayment agreement and complied with it. The evidence from all parties is that the debt has not been paid off and that the petitioner has not complied with the repayment agreement.

**CONCLUSIONS OF LAW**

The PACU correctly issued an Order to Compel Payment of Liability for an MA overpayment under claim number ██████████.

**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 16th day of October, 2015

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\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 October 16, 2015.

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