



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

DECISION

MAC/169275

PRELIMINARY RECITALS

Pursuant to a petition filed October 8, 2015, under Wis. Stat. § 49.497(1m)(a), to review a decision by the La Crosse County Department of Human Services in regard to Medical Assistance (MA) benefits, a hearing was held on December 2, 2015, by telephone. A hearing set for November 18, 2015, was rescheduled at the petitioner's request.

The issue for determination is whether the Department has incorrectly determined that the petitioner is not paying on an MA-related overpayment liability.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: [REDACTED] ES Supr.
La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of La Crosse County.

2. The petitioner received MAPP and Medicare Premium Assistance benefits from at least January through July 2013. He failed to report VA income to the agency for this period, and a \$4,263 overpayment for the period resulted. A MAPP overpayment notice was issued to the petitioner on August 4, 2014, and was followed by a repayment agreement (September 3, 2014) and dunning letters (December 2, 2014, January 5, 2015, and February 3, 2015). The petitioner did not respond to the latter documents.
3. The petitioner filed a fair hearing request to challenge the overpayment amount. At hearing, he asserted that he should only have to pay back a lower amount because he believed that the medical provider charged him too much, given the lack of efficacy of his treatment. Coincidentally, this Judge held the overpayment hearing. A decision was issued on November 20, 2014, dismissing the petitioner's overpayment appeal.
4. The petitioner also made a fee reduction request to the medical provider; that request was denied per a letter dated February 26, 2015.
5. The Department issued an *Order to Compel Payment of Liability* to the petitioner on September 18, 2015. Exhibit 9.
6. The petitioner has made no payments towards the \$4,263 overpayment, and has not entered into a repayment agreement.

DISCUSSION

Following issuance of an MA/MAPP overpayment notice, a person who then fails to enter into or adhere to a repayment agreement may be subject to an order to compel payment of that liability:

49.497(1m)(a) (a) If, after notice that an incorrect payment was made, a recipient, or parent of a minor recipient, who is liable for repayment of an incorrect payment fails to repay the incorrect payment or enter into, or comply with, an agreement for repayment, the department may bring an action to enforce the liability or may issue an order to compel payment of the liability. Any person aggrieved by an order issued by the department under this paragraph may appeal the order as a contested case under [ch. 227](#) by filing with the department a request for a hearing within 30 days after the date of the order. *The only issue at the hearing shall be the determination by the department that the person has not repaid the incorrect payment or entered into, or complied with, an agreement for repayment.*

(emphasis added)

Wis. Stat. §49.497(1m)(a).

The petitioner does not contest that MA paid out \$4,263 on his behalf from January through July 2013, or that he has not entered into a repayment agreement, or that he has not made payment against the liability. The petitioner continues to assert that it is unfair that he is responsible for payment for such a large amount, given that the provider's treatment was not helpful.

Because there is no factual dispute that the petitioner has not repaid the overpayment, and has not entered into a repayment agreement by the time of hearing, there is no issue for this administrative law judge to decide herein.

CONCLUSIONS OF LAW

Because there is no factual dispute that the petitioner has not repaid the overpayment, and has not entered into a repayment agreement by the time of hearing, there is no issue for this administrative law judge to decide herein.

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 Madison,
Wisconsin, this 4th day of December, 2015

\sNancy J. Gagnon
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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on December 4, 2015.

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