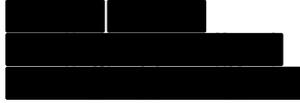




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MAC/169383

PRELIMINARY RECITALS

Pursuant to a petition filed October 13, 2015, under Wis. Stat. § 49.497(1m)(a), to review a decision by the Rock County Department of Social Services in regard to Medical Assistance, a hearing was held on November 18, 2015, by telephone.

No issue remains for determination.

PARTIES IN INTEREST:

Petitioner:



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Respondent:

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

By: 
Rock County Dept. of Social Services
P.O. Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of California. He formerly resided in Rock County.
2. Using a state wage match, the county determined that petitioner and his wife were overpaid \$474.98 in MA September and October, 2013 due to unreported wages. The county sent a notice of the overpayment to petitioner's last known address in Fresno, CA. Petitioner had moved from that address and did not receive the notice.

3. On September 18, 2015 the PACU sent a Notice to Compel Payment to the overpayment to petitioner's current address. Petitioner appealed.
4. During and after the hearing it was determined that the state wage match was incorrect. Petitioner did not have earned income from Community Action in late 2013; he last worked there in 2012.
5. The county agency agreed to rescind the overpayment based upon the new information.

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 he paid off the overpayment, or whether he has entered into a repayment agreement and complied with it.

Although the issue in this appeal is limited, it became evident during and after the hearing that the state wage match upon which the overpayment was based was incorrect. Therefore the Rock County agency agreed to rescind the overpayment. I will dismiss this appeal because of the issue preclusion, but petitioner can be assured that the overpayment claim also is being reversed.

CONCLUSIONS OF LAW

No matter remains for determination; the overpayment at issue has been rescinded.

THEREFORE, it is **ORDERED**

That the petition for review 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 8th day of December, 2015

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

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Madison, WI 53705-5400

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The preceding decision was sent to the following parties on December 8, 2015.

Rock County Department of Social Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability