



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MAC/169654

PRELIMINARY RECITALS

Pursuant to a petition filed October 21, 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 November 12, 2015, at Appleton, Wisconsin.

The issue for determination is whether the PACU can compel payment of a public assistance debt.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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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 # [REDACTED]) is a resident of Outagamie County.
2. On October 25, 2014 the agency sent the petitioner a notice stating she was overpaid \$2,551.37 in MA benefits for the period of March 1, 2013 through March 31, 2014 under claim numbers [REDACTED] and [REDACTED]. This notice was sent to the petitioner's current address.
3. On November 5, 2014 the agency sent the petitioner a repayment agreement.

4. The agency sent the petitioner dunning notices on December 2, 2014, January 5, 2015, and February 3, 2015.
5. On September 30, 2015 the agency sent the petitioner an Order to Compel Payment of Liability. Records showed that no payment on the claim had been made.
6. On October 26, 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 an appeal concerning an order to compel payment of the liability "the only issue [] 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." *Id.*

The petitioner filed this appeal to contest whether she owes the money at all. I cannot reach the merits of overpayment claim. The notice of overpayment was sent to the petitioner on October 25, 2014. She had 45 days from the date of the notice to appeal the underlying overpayment. She never filed an appeal on the overpayment. The only issues I have jurisdiction to address are whether she paid off the overpayment, and whether she has entered into a repayment agreement and complied with it. There is no dispute that the petitioner has not paid off the overpayment and has not entered into and complied with a repayment agreement. Thus, I must conclude that the agency correctly issued an Order to Compel for the amount due.

CONCLUSIONS OF LAW

The agency correctly issued an Order to Compel Payment of Liability for an MA overpayment.

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 13th day of November, 2015

\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 November 13, 2015.

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