



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MOP/169815

PRELIMINARY RECITALS

Pursuant to a petition filed November 2, 2015, under Wis. Stat., §49.45(5), to review a decision by Brown County Human Services to recover Medical Assistance (MA), a hearing was held on November 18, 2015, by telephone.

The issue for determination is whether petitioner failed to report increased income resulting in an overpayment.

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: [Redacted]
Brown County Human Services
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Brown County. She received FoodShare and BadgerCare Plus (BC+) MA during the period in question.
2. Petitioner completed a six-month review in April and May, 2014. Her employer filed a verification form reporting that petitioner was working eight hours per week at \$10.87 per hour. On June 16, 2014 the county notified petitioner that she would continue to receive BC+ with no

- premium, but she needed to report a change in income if income rose above \$1,310.83. At the time the county was budgeting \$373.93 as monthly earned income.
3. Petitioner actually was working substantial overtime/extra hours. Her income was above \$1,310.83 in July, 2014, and it continued to be above that level every month thereafter.
 4. Had petitioner reported her income correctly she would have been ineligible for BC+ for all of September, 2014 through August, 2015.
 5. The county discovered the increased income through a state wage match in the spring, 2015. By a notice dated October 9, 2015 the county informed petitioner that she was overpaid \$8,380.27 in MA from September, 2014 through August, 2015, claim no. [REDACTED]

DISCUSSION

MA overpayment recovery is authorized by Wis. Stat., §49.497(1):

(a) The department may recover any payment made incorrectly for benefits provided under this subchapter or s. 49.665 if the incorrect payment results from any of the following:

1. A misstatement or omission of fact by a person supplying information in an application for benefits under this subchapter or s. 49.665.
2. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits.
3. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.

See also the department's BC+ Handbook, Appendix 28.2. The overpayment must be caused by the client's error. Overpayments caused by agency error are not recoverable.

An overpayment is determined as follows: "If the case was ineligible for BC+, recover the amount of medical claims paid by the state and/or the capitation rate. Use the ForwardHealth interChange data from the Total Benefits Paid by Medicaid Report(s). Deduct any amount paid in premiums (for each month in which an overpayment occurred) from the overpayment amount." Handbook, App. 28.4.2.

As of April 1, 2014, all childless adults were eligible for BC+ with the income limit of 100% of the Federal Poverty Level, which, for a one-person household is \$980.83 and for a two-person household is \$1,310.83. See Wis. Stat., §49.471(4)(a)4.b for the new law, and the MA Handbook, Appendix 50.1 for the limit. Petitioner's monthly household income was well over those limits throughout the period in question. It is the recipient's duty to report accurate income; if the employer verifies income incorrectly it still is the recipient's duty to correct the error.

Petitioner testified that she did not report the extra hours because she never knew when she would be called for them. However, the June, 2014 notice told her to report if her income in a month rose above \$1,310.83. It did not tell her to guess whether her income might be lower in future months. The simple

result is that petitioner's BC+ was determined using income much lower than petitioner actually earned. The county correctly determined the MA overpayment.

CONCLUSIONS OF LAW

The county correctly determined an MA overpayment that occurred after petitioner failed to report that her earned income was substantially higher than the amount being budgeted.

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 23rd day of November, 2015

\sBrian C. Schneider
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 November 23, 2015.

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