



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MOP/170160

PRELIMINARY RECITALS

Pursuant to a petition filed November 12, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Sheboygan County Department of Human Services in regard to Medical Assistance, a hearing was held on December 03, 2015, at Sheboygan, Wisconsin.

The issue for determination is whether the agency correctly determined that the petitioner was overpaid \$199.48 in BadgerCare (BC) Plus benefits in March 2015.

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: Becky Burdick

Sheboygan County Department of Human Services
3620 Wilgus Ave
Sheboygan, WI 53081

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # ) is a resident of Sheboygan County. The petitioner is the only person in her household.
2. On October 17, 2015 the agency sent the petitioner a notice stating that she was overpaid \$199.48 in BadgerCare (BC) Plus benefits in March 2015.

3. The petitioner was a recipient of BC Plus benefits. On October 29, 2014 the agency sent the petitioner a notice regarding her BC Plus benefits. The notice stated that if the household's total monthly income before taxes went over \$972.50, the household had to report the increase in income by the 10th day of the next month.
4. In January 2015 the petitioner's monthly gross income was \$1,615.17. In February 2015 the petitioner failed to report her income was above the reporting requirement. The petitioner continued to receive BC Plus benefits in March 2015. The petitioner's gross income from her primary job was \$1,892.26 in February 2015 and \$1,895.27 in March 2015.
5. The agency paid \$199.48 as the net capitation for the petitioner's BC Plus benefits in March 2015.
6. On November 16, 2015 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

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.

Childless adults are financially eligible for BC Plus if their income is below 100% of the Federal Poverty Level (FPL). BC+ Handbook, Appendix 16.1.1. For household size of one, 100% FPL in April and May 2015 was \$972.50.

The overpayment in this case was caused when the petitioner's income went above \$972.50. Her income increased above this level in January 2015. She had until February 10, 2015 to report her increase in income. She failed to report this increase until March 2015. Had she timely reported in February 2015, she would have been ineligible for BC Plus benefits in March 2015. Due to her failure to report, she continued to receive BC Plus coverage in March 2015. The agency paid \$199.48 as the net capitation for the petitioner's BC Plus benefits in March 2015.

The petitioner maintains that she reported the income from her primary job to the agency. She could not recall the precise date. Given that she could not recall the precise date, and that the agency testified that she reported this new job in March 2015, I conclude that the first report was in March 2015. Perhaps she

thought that she reported in February when in fact she did not report until March. The petitioner further argued that she did not use her BC Plus benefits in March 2015. That is true; however, she still had BC benefits, and is responsible to pay back the net capitation amount.

CONCLUSIONS OF LAW

The agency correctly determined that the petitioner was overpaid \$199.48 in (BC) Plus benefits in March 2015.

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 4th day of December, 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 December 4, 2015.

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