



FH
[REDACTED]

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

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/173822

PRELIMINARY RECITALS

Pursuant to a petition filed April 20, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Brown County Human Services [“County”] in regard to Medical Assistance [“MA”], a Hearing was held via telephone from Madison, Wisconsin on May 24, 2016.

The issue for determination is whether the following Claim can be established against petitioner for an alleged overpayment of MA: Claim Number [REDACTED]; June 1, 2015 to January 31, 2016; \$2,433.31.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

BY: [REDACTED] ESS II
Brown County Human Services
Economic Support-2nd Floor
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County, Wisconsin.

2. The County established the following Claim against petitioner for an alleged overpayment of MA: Claim Number [REDACTED]; June 1, 2015 to January 31, 2016; \$2,433.31.
3. On June 1, 2015 petitioner reported to the Wisconsin Department of Health Services ["DHS"] via an 800 telephone number that was sent to her by DHS in connection with her MA; she reported that she was starting a job and had income; she was told that no action was needed on her part. Exhibits #1B & #2.
4. On August 18, 2015 petitioner reported to DHS via an 800 telephone number that was sent to her by DHS in connection with her MA; she reported that she was starting a new job that had medical insurance; she was told that no action was needed on her part. Exhibits #1B & #2.
5. The alleged MA overpayment in *Findings of Fact #2*, above, was established because the County contends that petitioner failed to report when she went over the MA income limit. Exhibits #2 & #3.

DISCUSSION

An overpayment of MA benefits may be recovered only in the following 3 circumstances:

- A. A misstatement or omission of fact by a person supplying information in an application for benefits;
- B. The failure of an MA or BadgerCare 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; or,
- C. The failure of an MA or BadgerCare 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.

Wis. Stat. § 49.497(1)(a) (2013-14); See also, *Medicaid Eligibility Handbook* ["MEH"] 22.2.1; BEM/DWS Operations Memo, No: 05-39, Date: 09/29/2005; and, BEM/DWS Operations Memo, No: 06-10, Date: 02/09/2006.

In this case the petitioner reported to DHS. Therefore, the alleged overpayment must be reversed. The County argues that petitioner used the wrong 800 telephone number. However, the 800 numbers petitioner used were sent to her by DHS in connection with her MA. If the numbers were not correct then the DHS agent petitioner spoke should have alerted petitioner and provided her with the correct number.

Finally, it is noted that the County contends that petitioner was required to report by May 10, 2015. Exhibit #2. It appears her first report was not made until June 1, 2015. This may provide the basis for the County to establish an overpayment for a different time period. If the County establishes an overpayment for a different time period it must provide petitioner with proper written notice and an opportunity for a Hearing.

CONCLUSIONS OF LAW

For the reasons discussed above, the following Claim cannot be established against petitioner for an overpayment of MA: Claim Number [REDACTED]; June 1, 2015 to January 31, 2016; \$2,433.31

NOW, THEREFORE, it is

ORDERED

That this matter be REMANDED to the County, that, within 10 days of the date of this *Decision*, the County take all necessary steps to REVERSE the following Claim that was established against petitioner for an alleged MA overpayment and not take any action to enforce or collect that Claim: Claim Number [REDACTED]; June 1, 2015 to January 31, 2016; \$2,433.31.

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 June, 2016

\sSean P. Maloney
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 June 23, 2016.

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