



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP- 173835

PRELIMINARY RECITALS

On April 21, 2016, the above petitioner filed a hearing request under Wis. Stat 49.45 and Wis Admin Code HA 3, to challenge a decision by the Rock County Department of Social Services regarding Medical Assistance. The hearing was held on June 7, 2016, by telephone..

The issue for determination is whether the agency erred in its determination that petitioner is liable for a medical assistance overpayment in the amount of \$905.43.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

Rock County Department of Social
Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

John Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County.
2. Petitioner was enrolled in BC+ with no income budgeted. He was a single adult with no dependents.
3. Petitioner was notified of his obligation to report if his income exceeded \$972.50 in any month.
4. Petitioner began a job in June 2014.
5. The agency recognized a discrepancy between the income budgeted for petitioner the wages reported to the state by his employer.
6. On 8/21/15, the employer reported to the agency the following gross wages paid to petitioner in 2014: July-\$2,913.06, August-\$3,287.96, September-\$2,500.49, October-\$2,289.26.
7. An overpayment notice was issued to petitioner on 3/10/16 for the period from 9/1/14 to 10/31/14 in the amount of \$905.43.

DISCUSSION

BadgerCare Plus is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. The program's nonfinancial eligibility standards were broadened effective April 1, 2014, to include adults who do not have minor children in their home. Wis. Stat. § 49.45(23); 2013 Wisconsin Act 116, § 29, for effective date; *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1. The petitioner meets the nonfinancial eligibility tests for the program.

The petitioner must also pass an income test. The income limit for adults went lower effective April 1, 2014: an eligible adult cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1. The 100% FPL amount at the relevant time for this appeal was \$972.50 monthly for a household of one. *Id.*, § 50.1.

The Department calculated monthly gross income for this household of amounts exceeding this threshold. From gross income the Department is allowed to subtract only those income tax deductions listed on lines #23 through #35 of the federal 1040 tax return, subject to modifications listed at 42 C.F.R. § 435.603(e). No applicable deductions were identified here.

I was unable to find any error with the agency's calculations and petitioner did not identify any. Petitioner only argued this this was an oversight on his part, and that he was insured through his employer and believed that the state benefits were thereby cancelled. While this is an unfortunate circumstance, the oversight does not excuse liability. The petitioner was properly informed of his obligation to report his income. The state does not monitor the real-time situations of the many thousands of residents who receive benefits. He assumed the state knew he was employed and otherwise insure and failed to report. The money paid by the state to keep him enrolled must be recouped.

CONCLUSIONS OF LAW

The agency did not err in its determination of the overpayment.

THEREFORE, it is

ORDERED

That this appeal 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, 1 West Wilson Street, Room 651, **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 7th day of July, 2016

\s _____
John Tedesco
Administrative Law Judge
Division of Hearings and Appeals

FH

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State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 7, 2016.

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