



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION
Case #: MOP - 174052

PRELIMINARY RECITALS

On May 3, 2016, the above petitioner filed a hearing request under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to challenge a decision by the Dane Cty. Dept. of Human Services regarding Medical Assistance. The hearing was held on June 21, 2016, by telephone.

The issue for determination is whether the agency erred in determining petitioner's liability for a medical assistance overpayment in the amount of \$3,193.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: [REDACTED]
Dane Cty. Dept. of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County.

2. Petitioner applied for BC+ and was enrolled as a single childless adult in August 2014.
3. Petitioner was informed by notice dated 9/5/14 of his obligation to notify the agency of income over \$972.50 in a month.
4. In September 2014, petitioner's income exceeded the threshold. If petitioner had reported this increase, his BC+ would have been closed as of 10/31/14.
5. Petitioner's income exceeded the eligibility threshold in every month from September 2014 to May 2015.
6. The eligibility limit changed for 2015 to the amount of \$980.83. When petitioner renewed his BC+ he was sent a new notice on 7/20/15 informing him of his obligation to report monthly income over this amount.
7. Petitioner's income exceeded this amount in November 2015 when his monthly income was nearly \$3,000. Petitioner's income remained over the threshold until the end of April 2016.
8. The agency issued notices of overpayments from 11/1/14 to 4/30/15 (\$1,803), and 12/1/15 to 4/30/16 (\$1,390).
9. Petitioner appealed.

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 must also pass an income test. An eligible applicant 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 was 972.50 monthly for a household of one in 2014 and \$980.83 monthly for a household of one in 2015. *Id.*, § 50.1.

The Department has presented a well-documented case showing the overpayment calculations and reasons from the overpayments from 11/1/14 to 4/30/15 (\$1,803), and 12/1/15 to 4/30/16 (\$1,390). The basis for the overpayment is excessive income over the eligibility limits.

At hearing, petitioner's only argument is that he was unaware of his obligation to report an increase in income. In order to be recoverable, the error must be a client error. If petitioner was never notified of his obligation to report his income increases then he may avoid liability. But, numerous notices were sent to petitioner informing him of his obligations to report income increases. One such notice was sent to petitioner on 9/5/14. Another was sent on 7/20/15. Petitioner concedes that the notices were sent to his correct address. Petitioner claims he was unaware of this requirement. I do not entirely disbelieve that claim. But, his lack of awareness, if that is true, was not the result of agency error which is what petitioner would need to show to avoid liability. Perhaps petitioner was simply careless in his reading of notices or chose not to read the important communications sent to him after his request for public benefits which include many rules. This is client error and the liability has been shown to be a correct determination.

CONCLUSIONS OF LAW

The agency did not err in determining an overpayment for BC+ when petitioner's income increased over the threshold eligibility limit.

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, **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 19th day of July, 2016

\s _____
John P. Tedesco
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 July 19, 2016.

Dane Cty. Dept. of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability