



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MOP - 174231

PRELIMINARY RECITALS

Pursuant to a petition filed on May 9, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Rock County Dept. of Social Services regarding Medical Assistance (MA), a hearing was held on June 16, 2016, by telephone.

The issue for determination is whether petitioner is liable for an MA overpayment

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, WI 53703

By: [REDACTED]
Rock County Dept. of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County.
2. Petitioner applied on-line for health insurance on December 13, 2014. On January 13, 2015, the respondent wrote petitioner to advise her that her application was approved, with coverage

commencing December 1, 2014. In that notice the petitioner was advised that she needed to report if her income exceeded \$972.50.

3. Petitioner did not see the notice and was unaware that she was receiving BadgerCare Plus (BC+).
4. Petitioner failed to report employment or income at [REDACTED], where she commenced employment in January, 2015. The county discovered the income in 2015 via a wage match. The county obtained petitioner's income records and determined that she would have been ineligible for BC+ beginning March 1, 2015, through September 30, 2015.
5. On April 5, 2016, the county sent petitioner a notice informing her that she was overpaid \$1,173.18 in MA payments from March 1, 2015, through September 30, 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:...

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.

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." MA Handbook, App. 28.4.2.

As of April 1, 2014 all childless adults became eligible for BC+ but with an income limit of 100% of the Federal Poverty Level, which, for a one-person household, is \$972.50. See Wis. Stat., §49.471(4)(a)4, and the MA Handbook, App. 50.1 for the current income limit. Thus when petitioner's income rose above that amount she lost BC+ eligibility.

Although I am sympathetic to petitioner's situation, I must uphold the overpayment. Petitioner applied for health care using her mother's address, and she never contacted the respondent to report a new address. The agency notified petitioner that her application was being processed and approved through the mail. It appears that petitioner did not follow up with her mail sent to her mother's address, but I cannot blame that on the agency.

The failure to report changes does not have to be intentional or fraudulent. Because petitioner did not follow up on her BC+ eligibility, she mistakenly did not know that she became eligible and that she needed to report the household income. The result, however mistaken, was that the state MA program paid almost \$1,200 in BC+ benefits on petitioner's behalf for which petitioner was ineligible. Under the clear language of the statute, the agency is obligated to seek recovery of those payments.

CONCLUSIONS OF LAW

The agency correctly seeks recovery of an MA overpayment because petitioner did not report new household income after she was determined to be eligible for BC+.

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, **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 9th day of August, 2016

\s _____
Peter McCombs
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 August 9, 2016.

Rock Cty. Dept. of Social Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability