



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MOP - 174655

PRELIMINARY RECITALS

Pursuant to a petition filed on May 24, 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 regarding Medical Assistance (MA), a hearing was held on July 12, 2016, by telephone.

The issue for determination is whether the agency correctly determined petitioner's liability for a medical assistance overpayment in the amount of \$1,837.62 due to unreported household income.

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]
Brown County Human Services
Economic Support-2nd Floor
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

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

2. Petitioner applied for EBD MA in June 2013. The only income reported on that application was for his wife [REDACTED] from the [REDACTED]. The reported earned income was \$9.25 per hour at 14.5 hours per bi-weekly pay period.
3. On June 28, 2013, the agency sent a summary of the application information to petitioner which included his wife's income from the [REDACTED]. It did not include any income from [REDACTED].
4. Petitioner contacted the agency in July 2013 to request Medicare premium assistance (QMB). The request was approved based on the income previously reported being the only household income.
5. The petitioner was sent a summary of the case information signed a renewal on 6/26/14 indicating that there were no changes to report.
6. On September 17, 2015, [REDACTED] applied for EBD MA and reported income from the [REDACTED] of 3 hours per day at \$10 per hour. That employment was reported to have begun in 2012. Petitioner's wife also reported employment and wages from [REDACTED] at 35 hours per week with an hourly rate of \$17 per hour. This employment was reported to have begun in 2012.
7. In November 2015, the agency sought verification from employers to determine actual income received in the household. The [REDACTED] [REDACTED] [REDACTED] reported to the agency that Petitioner's wife was hired in October 2011 and was still employed at the time of the request. It reported that petitioner's wife was then paid \$10.35 per hour for 15 hours per week. The detailed wages are reported for each pay period in a wage summary which is part of exhibit 2. The summary reflects gross earned income from the [REDACTED] of approximately \$500-600 per month throughout 2013, 2014, and 2015.
8. The agency also received detailed wage information from [REDACTED] which reported wages for [REDACTED] beginning in April 2012 through September 2013, and then from January 2014 through June 2015 (See Ex. #2). The income in most of the months is between \$2,000 and 3,000.
9. On 4/6/16, the agency issued overpayment notices totaling \$1,837.42.
10. Petitioner appealed.

DISCUSSION

The department "may" recover any overpayment of medical assistance that occurs because 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 [BadgerCare].
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.

Wis. Stat. § 49.497(1).

Recipients must report any change of income or other circumstances that affects their benefits to the agency by the 10th day of the month following the change. *BadgerCare Plus Eligibility Handbook*, § 27.3. The agency contends that the petitioner's wife had income from a job at [REDACTED] that was not reported. Instead, only income from the [REDACTED] was reported to and budgeted by the agency.

At hearing, petitioner was represented by his daughter. She did not dispute the calculations or the MA received. She discussed miscommunication and misunderstandings and suggested that the overpayment was the fault of the agency and not her father. She complained about unprofessional behavior by the agency such as not contacting petitioner to ask for her mother's information. Petitioner daughter also, incongruently, argued that the mother's income was never hidden from anyone since it was reported on the September 2015 EBD application for [REDACTED] (which is after the overpayment period ends). Petitioner's daughter also seemed to argue that the [REDACTED] income was reported in the June 2014 renewal but was mistakenly designated as [REDACTED] income. But, this does not square with the income documents from [REDACTED] because in May 2014 [REDACTED] earned \$3,038.75 from [REDACTED] and she earned \$2,309.25 in June. The [REDACTED] income reported on the June 2014 renewal for the [REDACTED] add up to far less than that amount. Furthermore, Petitioner's daughter though this was confusion caused by misdesignating the income as [REDACTED] income because [REDACTED] was not employed at the [REDACTED] [REDACTED] in the summer. But, [REDACTED] received paychecks from the [REDACTED] on June 5, and June 20 in 2014. All the income from both sources should have been reported at the June 2014 renewal. This was either intentional or extremely careless.

All of petitioner's arguments lack merit. Income was required for all household members on the initial Access application in June 2013. [REDACTED]'s minimal income from the schools district was included. But her primary employment was at [REDACTED] and was not included. In fact, the record reflects that [REDACTED] earned \$3,157.75 in June 2013 when petitioner applied for MA. She was working both jobs at the time of application, but only one was reported. The [REDACTED] wages were not reported by petitioner or his wife until 2015, after she had been working there for years. Petitioner's daughter repeated statements that the fault lies with the agency for not asking about [REDACTED]'s income are groundless.

CONCLUSIONS OF LAW

The agency did not err in its determination that petitioner failed to report household income resulting in an MA overpayment.

THEREFORE, it is

ORDERED

That this matter 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 5th day of August, 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 August 5, 2016.

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