



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MOP - 174698

PRELIMINARY RECITALS

Pursuant to a petition filed on May 27, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Green Lake County Department of Human Services regarding Medical Assistance (MA), a hearing was held on July 5, 2016, by telephone.

The issue for determination is whether the agency erred in its determination of the BC+ overpayment in the amount of \$1,844.47.

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]
Green Lake County Department of Human Services
Human Services Ctr
571 County Road A
Green Lake, WI 54941

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

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

2. Petitioner applied for MA on 10/20/14. He reported that he was not employed. His application was approved and he was informed that he was required to report to the agency within 10 days if his gross household income exceeded \$1,310.83.
3. The agency noted a state wage match discrepancy between employer-reported wages and the wages that had been reported by petitioner. The agency investigated and learned that petitioner had income exceeding the eligibility threshold.
4. His income exceeded the eligibility limit and the reporting limit in April through September 2015.
5. Petitioner was required to report the income increase as of May 10, 2015. This would have resulted in a closure of BC+ effective June 1, 2015.
6. BC+ closed at the end of October 2015 due to petitioner not completing a periodic review.
7. On 6/7/16 the agency issued a BC+ overpayment notice informing petitioner that he was liable for an overpayment from 6/1/15 to 10/31/15 in the amount of \$1,844.47.
8. 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 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 is \$980.83 monthly for a household of one. *Id.*, § 50.1.

The Department calculated monthly gross income for this household of \$1,760. 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 argued that he had company health insurance and left a message for the agency thinking that would be enough. He also thought that his enrollment in his employer's insurance coverage would have resulted in communication to BC+. Such a belief is optimistic. I will decide this case not because I do not find petitioner credible, but because he was simply not appropriately vigilant in his purported effort to disenroll from BC+ or report his new income. Petitioner does not recall what number or entity he called to leave a message. I am sure if petitioner was *seeking* public benefits he would be more assertive in his communications and ensure that his desired actions were being acted upon. This error, albeit unintentional, was petitioner's.

CONCLUSIONS OF LAW

The agency did not err in its determination of the MA 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, **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

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on August 5, 2016.

Green Lake County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability