



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: MOP - 175119

PRELIMINARY RECITALS

Pursuant to a petition filed on June 20, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Marinette County Department of Human Services regarding Medical Assistance (MA), a hearing was held on July 14, 2016, by telephone.

The issue for determination is whether the respondent is liable for an overpayment of Medical Assistance benefits.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: [Redacted]
Marinette County Department of Human Services
Wisconsin Job Center Suite B
1605 University Drive
Marinette, WI 54143

ADMINISTRATIVE LAW JUDGE:
Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Marinette County. He received BadgerCare Plus coverage from at least July, 2015, through November, 2015.

2. The respondent received a State Wage Record crossmatch alert from the Department of Workforce Development indicating that the petitioner had been receiving earnings in 2015 that exceeded the income previously reported.
3. On May 5, 2016, the respondent issued a Medical Assistance/BadgerCare/BadgerCare Plus Overpayment Notice informing the petitioner that it had determined he had been overpaid \$648.24 in the period of July, 2015, through November, 2015, due to client error in failing to report household income exceeding program limits.
4. Petitioner filed a Request for Fair Hearing on June 20, 2016.

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).

Medical assistance recipients, including BC+ recipients, must report relevant changes to the agency within 10 days. Wis. Admin. Code § DHS 104.02(6); *BadgerCare + Eligibility Handbook* § 27.3. The petitioner received BadgerCare Plus, the medical assistance program for those whose income is below the federal poverty level who are not elderly or disabled. Wis. Stat. § 49.471. Because eligibility depends upon countable income vis á vis the federal poverty level, recipients must report when their income exceeds the eligibility limit. *BadgerCare + Eligibility Handbook* § 27.3; Exhibit #6. The county agency alleges that from July, 2015, through November, 2015, the petitioner received \$648.24 more in BadgerCare Plus benefits than he was entitled to because he failed to report that he was receiving earned income from his employer. The Department may recover medical assistance overpayments that occur because the recipient fails to report any change in his situation that would have affected his eligibility for benefits. Wis. Stat. § 49.497(1).

In doing so, BadgerCare Plus overpayments are calculated for ineligible households by adding all medical expenses and capitation rate fees paid on behalf of the household and then subtracting any premiums the household has paid while incorrectly receiving benefits. *BadgerCare Plus Handbook*, § 28.4.2.

In July, 2015, through November, 2015, the petitioner headed a one person household, and his income exceeded the limit for BC+ at that time, based upon the earnings verifications received by respondent. See, *BadgerCare+ Eligibility Handbook*, § 50.1, Release 13-02.

Petitioner raised concerns that he was being accused of defrauding the program, but the respondent's representative testified that there was no evidence of fraud in this matter.

The petitioner has not pointed to any error in the computations of his actual income or eligibility for BC+ in July, 2015, through November, 2015, and I cannot find any error either. The preponderance of the evidence in this record establishes that he was overpaid \$648.24 in Medical Assistance in July, 2015, through November, 2015.

CONCLUSIONS OF LAW

The Department correctly determined that the petitioner was overpaid \$648.24 in Medical Assistance in July, 2015, through November, 2015, because he failed to report that that his income had increased.

THEREFORE, it is ORDERED

That the petitioner's 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 16th day of August, 2016

\s _____
Peter McCombs
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 16, 2016.

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