



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: MOP - 175645

PRELIMINARY RECITALS

Pursuant to a petition filed on July 18, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Pierce County Department of Human Services regarding Medical Assistance (MA), a hearing was held on August 11, 2016, by telephone.

The issue for determination is whether the petitioner must repay an overpayment of medical assistance.

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]
Pierce County Department of Human Services
412 West Kinne Street
PO Box 670
Ellsworth, WI 54011

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [Redacted]) is a resident of Pierce County.

2. The county agency seeks to recover \$280.97 in medical assistance provided to the petitioner from December 2015 through March 2016 because it contends that he failed to report a change of income.
3. The petitioner's girlfriend left information concerning the petitioner's change of income with an attendant at the agency in October 2015.

DISCUSSION

The department may recover any overpayment of medical assistance that occurs because a recipient fails to report any change in his financial situation that would have affected his eligibility. Wis. Stat. § 49.497(1). The agency seeks to recover \$280.97 in medical assistance provided to the petitioner from December 2015 through March 2016 because it contends that he failed to report a change of income that occurred in the fall of 2015. The petitioner disputes that he failed to report this.

The agency must prove by the preponderance of the evidence that it is entitled to recover the alleged overpayment. All of the petitioner's testimony was provided by his girlfriend because he is deaf. She contends that she left information concerning the change of income with an agency receptionist in October 2015. I am generally skeptical of this type of statement because there is no evidence outside of the testimony itself to corroborate it. Also, my dealings with the workers in Pierce County convince me that they are competent. Nevertheless, the petitioner's girlfriend was able to describe the worker she saw at the desk in October and another worker she saw there several months later. She also provided details of her interaction with those workers. Although this testimony is uncorroborated, it sounded credible and is sufficient to prevent the agency from proving by preponderance of the evidence that change in income was not reported. Because of this, it is not entitled to recover any overpayment that occurred.

CONCLUSIONS OF LAW

The department may not recover the \$280.97 overpayment of medical assistance that allegedly occurred from December 2015 through March 2016 because the petitioner notified the agency of the change in income that reduced his benefits.

THEREFORE, it is

ORDERED

That this matter is remanded to the county agency with instructions that within 10 days of the date of this decision it certify to the Division of Hearings and Appeals that it has ended its attempts to recover the \$280.97 overpayment of medical assistance that allegedly occurred from December 2015 through March 2016.

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 22nd day of August, 2016

\s _____
Michael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

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Madison, WI 53705-5400

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The preceding decision was sent to the following parties on August 22, 2016.

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