



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MQB/170652

PRELIMINARY RECITALS

Pursuant to a petition filed December 07, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Sheboygan County Department of Human Services in regard to Medical Assistance, a hearing was held on March 15, 2016, at Sheboygan, Wisconsin.

This hearing was originally scheduled for January 7, 2016. On the date of hearing, the Petitioner indicated that she was not feeling well and she asked to reschedule.

The hearing was rescheduled to February 9, 2016. Because the Petitioner was going into the hospital, she asked for another hearing date.

The hearing was then rescheduled to March 15, 2016, and took place on that date.

The issue for determination is whether the agency correctly ended the Petitioner's Medicare Premium assistance, effective December 1, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: [Redacted], Economic Support Supervisor
Sheboygan County Department of Human Services
3620 Wilgus Ave
Sheboygan, WI 53081

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sheboygan County.
2. On November 18, 2015, the agency sent the Petitioner a notice, advising her that effective December 1, 2015, she would not be enrolled in Medicare Premium Assistance because, she had too much income. (Exhibit 3)
3. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on December 7, 2015. (Exhibit 1)
4. Beginning October 2, 2015, the Petitioner began receiving \$1,476.00 per month in Social Security Income. Her income increased, due to the death of her husband. (Exhibit 2)

### DISCUSSION

Medicare is the health insurance program administered by the *federal* Centers for Medicare & Medicaid Services (CMS) for people over 65 and for certain younger disabled people. Medicare is divided into two types of health coverage. Hospitalization Insurance (Part A) pays hospital bills and certain skilled nursing facility expenses. Medical Insurance (Part B) pays doctors' bills and certain other charges. *Medicaid Eligibility Handbook (MEH)*, § 32.1.

As Medicare is an insurance program, it charges premiums. *Wisconsin* Medicaid pays some or all of the Medicare premiums for those who qualify (Medicare beneficiaries). There are four types of Medicare beneficiaries and benefits differ from category to category:

1. Qualified Medicare Beneficiary (QMB),

This pays Medicare Part A and B premiums and Medicare deductibles;

2. Specified Low-Income Medicare Beneficiary (SLMB),

This pays for Medicare Part B premiums;

3. Specified Low-Income Medicare Beneficiary Plus (SLMB+) a/k/a Qualifying Individuals – 1 (QI-1),

This pays for Medicare Part B premiums;

4. Qualified Disabled and Working Individuals (QDWI).

This pays for Medicare Part A premiums.

*MEH*, §§ 32.1.1 and 32.1.3

A person who is receiving SSI and is a MA recipient is also eligible for QMB/SLMB/SLMB+ benefits, *if* the applicant also meets the financial criteria, i.e., income and asset eligibility limits. Wis. Stat. §49.47(1)(e), *MEH*, §§ 32.2-32.5.

The category of eligibility depends on the recipients' income. *MEH* § 32.1.3.

Income is calculated as follows:

\$ Earned income  
 - \$65 and ½ earned income deduction  
 + Unearned income (social security income, etc.)  
 - Special exempt income as defined in *MEH §15.7.2* (i.e. child support)  
- \$20 standard deduction  
 = Net income used to determine QMB/SLMB/SLMB+/QDWI eligibility

When counting social security income, use gross social security income. Gross social security income:

1. Of a self-payer = the social security check amount + Medicare premiums s/he has paid.
2. Of someone for whom the State is paying the premiums = the social security check amount.

Disregard the COLA (cost of living adjustment) increase for the current year until the month after the new federal poverty limits become effective.

*MEH §§ 32.2-32.5*

As applied to Petitioner, the calculation of income is as follows:

Zero earned income  
 +\$1476.00 Disabled Widow Social Security benefits  
 -\$20.00 Standard deduction  


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 = \$1456.00 Net income

The QMB income limit is 100% of the Federal Poverty Limit (FPL). 100% of FPL in November 2015 was \$980.83. Petitioner's income of \$1456.00 exceeded that amount.

The income limit for the SLMB program is at least 100% of the Federal Poverty Level (FPL), but less than 120% of FPL. *MEH § 32.3.2* In November 2015, 100% of FPL was \$980.83 per month, for one person and 120% of FPL was \$1177.00 per month, for one person. *MEH § 39.5* Petitioner's income of \$1456.00 falls outside the program limits of \$980.83 to \$1177.00 for the SLMB program. Consequently, Petitioner was not eligible for the SLMB program as of September 1, 2012.

The income limit for SLMB+ is at least 120% of FPL but less than 135% of FPL (\$1177.00 to \$1324.13 per month for one person.) *MEH §§ 32.4.2 and 39.5* Petitioner's income is over that limit as well.

The QDWI program does not appear applicable to Petitioner, because there is no indication she is required to pay Medicare Part A premiums.

### **CONCLUSIONS OF LAW**

The agency correctly ended the Petitioner's Medicare Premium Assistance, effective December 1, 2015, because she was over the income limit.

**THEREFORE, it is**

**ORDERED**

That the petition 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**

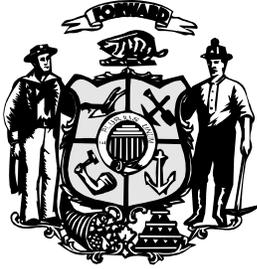
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those 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 Milwaukee,  
Wisconsin, this 29th day of March, 2016

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\sMayumi M. Ishii  
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 March 29, 2016.

Sheboygan County Department of Human Services  
Division of Health Care Access and Accountability