



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MQB/171323

PRELIMINARY RECITALS

Pursuant to a petition filed January 09, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance, a hearing was held on February 16, 2016, at Racine, Wisconsin.

The issue for determination is whether the agency properly discontinued the Petitioner’s Medicare Premium Assistance benefits effective November 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:

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES #) is a resident of Racine County.
2. On September 21, 2015, the Petitioner contacted the agency to complete a renewal application of her Medicare premium assistance benefits. She reported that she had a checking account at

- Bank. The case was pended for verification of the checking account. Verification was due on October 1, 2015.
3. On September 29, 2015, the Petitioner brought a bank statement from ██████ to the agency. An agency worker attempted to fax the document to the Centralized Document Processing Unit. Only two pages were successfully faxed to the CDPU, including the fax cover sheet and an envelope from ██████ Bank addressed to the Petitioner.
 4. On October 1, 2015, the agency closed the Petitioner's Medicare Premium Assistance due to lack of verification.
 5. On October 5, 2015, the agency issued a Notice of Decision to the Petitioner notifying her that her Medicare Premium Assistance benefits would close effective November 1, 2015 due to lack of verification.
 6. On November 30, 2015, the agency issued a Notice of Decision to the Petitioner notifying her that her Medicare Premium Assistance benefits would close effective January 1, 2016.
 7. On January 7, 2016, the Petitioner contacted the agency to inquire why she was no longer receiving Medicare Premium Assistance benefits. She was informed that it was closed due to lack of verification. The Petitioner informed the agency worker at that time that an agency worker had faxed the bank statement on September 29, 2015. The agency denied receipt of the statement. Petitioner provided bank verifications to the agency on January 7, 2016.
 8. On January 11, 2016, the agency issued a Notice of Decision to the Petitioner informing her that her Medicare Premium Assistance benefits would re-open effective February 1, 2016.
 9. On January 7, 2016, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

The Qualified Medicare Beneficiary (QMB) program pays the Medicare Part B premiums and some deductibles and copayments of eligible persons whose income does not exceed the federal poverty level. Medicaid Eligibility Handbook (MEH), § 32.1.1. The agency uses the Medicaid eligibility rules to determine eligibility for QMB benefits. MEH, § 32.1. The agency is required to verify a Medicaid applicant's countable assets, including bank accounts. MEH, § 20.3.5. The verification receipt date is the day verification is delivered to the appropriate IM agency or the next business day if verification is delivered after the agency's regularly scheduled business hours. MEH, § 20.1.3.

In this case, I find there is sufficient evidence to demonstrate that the Petitioner properly delivered the requested bank verification to the agency on September 29, 2015. The agency had not requested address verification from the Petitioner so it is not logical to conclude that the Petitioner only wanted the agency worker to fax the bank envelope to CDPU.

The bank statements that the Petitioner submitted to the agency on January 7, 2016 clearly demonstrate that she did not exceed the asset limit in September or October, 2015. Her September, 2015 bank statement shows an ending balance of \$0.94 and her October, 2015 bank statement shows an ending balance of \$0.09. Further, I note that she was found eligible for Medicaid effective November 1, 2015 based on the notices issued by the agency. Therefore, I conclude that the Petitioner properly completed her renewal for QMB benefits when she submitted requested bank verification to the agency on September 29, 2015. This matter will be remanded to the agency to reverse its action in closing the Petitioner's QMB case effective November 1, 2015.

CONCLUSIONS OF LAW

The Petitioner properly submitted requested verifications for QMB benefits on September 29, 2015. The agency improperly closed the Petitioner's case on November 1, 2015 for failure to provide requested verifications.

THEREFORE, it is

ORDERED

That this matter is remanded to the agency to take all administrative steps necessary to rescind its action to close the Petitioner's QMB benefits effective November 1, 2015 and take steps necessary to re-open the Petitioner's QMB case for the period of November 1, 2015 – January 31, 2016. The agency shall take all steps necessary to reimburse the Petitioner or otherwise make her whole for any Medicare Part B premiums that were deducted from her Social Security checks as a result of the agency closing the Petitioner's case during this period. These actions shall be completed as soon as possible but no later than 10 days from the date of this decision.

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 19th day of April, 2016

\sDebra Bursinger
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 April 19, 2016.

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