



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MQB/172034

PRELIMINARY RECITALS

Pursuant to a petition filed February 15, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Waukesha County Health and Human Services in regard to Medical Assistance, a hearing was held on April 19, 2016, at Waukesha, Wisconsin.

The issue for determination is whether the agency correctly determined that the petitioner was not eligible for the Qualified Medicare Beneficiary premium payments effective March 1, 2016.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: [REDACTED]
Waukesha County Health and Human Services
514 Riverview Avenue
Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Waukesha County. She is the only person in her elderly, blind or disabled household.
2. The petitioner's monthly income \$1,561.09 consisting of \$1301 from social security and \$260.09 from two pensions.

3. On January 26, 2016 the agency sent the petitioner a notice stating that she was not eligible for the Qualified Medicare Beneficiary premium payments effective March 1, 2016 because she was over the program income limit.
4. On February 15, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

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.

Medicare, being an insurance program, charges premiums. Wisconsin *Medical Assistance* (MA) pays some or all Medicare premiums for eligible persons through the subprograms described below:

1. Qualified Medicare Beneficiary (QMB).
2. Specified Low-Income Medicare Beneficiary (SLMB).
3. Specified Low-Income Medicare Beneficiary Plus (SLMB+), also known as Qualifying Individuals – 1 (QI-1).
4. Qualified Disabled and Working Individuals (QDWI).

Medicaid Eligibility Handbook, App. 32.1.1. Subprograms 1 through 4 are collectively referred to as Medicare Premium Assistance programs.

The income limit for QMB is up to 100% of the federal poverty level. For SLMB the limit is from 100% to 119%, and for SLMB+ it is 120% to 134% of the federal poverty level. *MEH*, Apps. 32.2 – 32.5. And see, *MEH*, App. 39.5. You must be working and qualified disabled for QDWI, and neither is relevant here.

The petitioner's monthly income of \$1,561.09 exceeds 134% FPL. As of February 1, 2016 135% FPL for a household size of one is \$1,324.13. The petitioner's monthly income of \$1,561.09 significantly exceeds this income limit. Thus, she is not eligible for the Qualified Medicare Beneficiary premium payments.

The petitioner argued that her pension payments are not income. The petitioner testified that the pension payments were defined benefit plans, and thus excluded as income. This is a mischaracterization of her pension income and a misreading of the rules and regulations. The Medicaid regulations and policies direct the agency to count all unearned income as income in the month it is received. *MEH*, App. 15.4. The policy and regulations go on to include retirement benefits as unearned income. *MEH*, App. 15.4.4. The manual states:

Retirement benefits include work-related plans for providing income when employment ends.
Examples of retirement benefits include:

- Pension disability or retirement plans administered by an employer or union
- Accounts owned by the individual, such as *IRA* s
- Plans for self-employed individuals, sometimes referred to as Keogh plans.

Periodic payments made from a work-related retirement benefit plan should be counted as income in the month of receipt.

Id. Based upon the above regulation and policy, the agency properly included the petitioner's monthly pension payments as income.

If the petitioner was correct, and her pension payments were not to be included as income, then those plans would be considered assets. The asset limit for this program, for a household size of 1, is \$7,280. *MEH*, App. 32.6. Given that the petitioner receives \$260.09 per month for the remainder of her life, were these plans to be counted as assets, she would be ineligible for Qualified Medicare Beneficiary premium payments because she would be over the program asset limit.

CONCLUSIONS OF LAW

The agency correctly determined that the petitioner was not eligible for the Qualified Medicare Beneficiary premium payments effective March 1, 2016.

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).

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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 5th day of May, 2016

\sCorinne Balter
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 May 5, 2016.

Waukesha County Health and Human Services
Division of Health Care Access and Accountability