



FH

[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MQB- 173324

PRELIMINARY RECITALS

On April 1, 2016, the above petitioner filed a hearing request under Wis. Stats., § 49.45, to challenge a decision by the Milwaukee Enrollment Services regarding Medical Assistance. The hearing was held on May 17, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly denied the Petitioner's request for Medicare Premium Assistance 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

[REDACTED]

Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. On January 28, 2016, the Petitioner completed a renewal. Petitioner receives pension income of \$394.51/month and Social Security income of \$1,037/month.
3. On January 29, 2016, the agency issued a Notice of Decision to the Petitioner informing him that he was not eligible for Medicare Premium Assistance (SLMB) effective March 1, 2016 due to income exceeding the program limit. This was based on gross income of \$1,421.51 and counted income of \$1,411.51 (after deducting a \$20 disregard).
4. On April 1, 2016, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

Wisconsin has three related programs that help persons pay their Medicare premiums. SLMB and SLMB+ are medical assistance subprograms mandated by Wis. Stat. § 49.468(1m)(a) that pay their participants' Medicare Part B premiums. Medical Eligibility Handbook (MEH). § 32.1.1. The income limit is less than 100% of the federal poverty limit for the QMB program, 100% to 120% for the SLMB program, and 120% to 135% for the SLMB+ program. MEH, §§ 32.2 – 32.4. Each uses the same rules for determining financial eligibility as Medicaid. MEH, § 32.1.1. Those eligible for medical assistance cannot receive SLMB+. When determining benefits, a standard deduction of \$20 is applied for any income. Medicaid Eligibility Handbook, §15.7. The agency denied the petitioner's application because his gross countable income exceeds the limit for SLMB+ of \$1,177.

At the hearing, the Petitioner did not dispute the agency's calculation of his gross income of \$1,431.51/month. He noted that his net income is only \$1,309.51. The Petitioner further disputed the SLMB+ income limit of \$1,177 cited by the agency and produced a copy of a page from the agency website indicating that the income limit is \$1,336.50. Petitioner further testified that his Social Security income decreased beginning April, 2016.

Petitioner is correct that the income limit for SLMB+ can be up to 135% FPL which was \$1,324.13 at the time he completed his renewal in January, 2016. There is a range for determining eligibility for the program of 120% - 135% FPL which was \$1,177 - \$1,324.13 at the time of the Petitioner's renewal. The rules for determining eligibility within that range are the same as for Medicaid and its depends on the applicant's specific gross income.

The Petitioner's gross countable income of \$1,411.51 was, however, over the income limit. The agency is not allowed to consider net income. It is required to use gross income. The Petitioner did not dispute the agency's calculation of his gross income. Therefore, I conclude the agency properly denied the Petitioner's SLMB+ application effective March 1, 2016.

As for the Petitioner's change in income, the Petitioner was advised that he can re-apply for benefits at any time and the agency will review his eligibility based on any changes in circumstances at that time.

CONCLUSIONS OF LAW

The agency properly concluded the Petitioner was not eligible for SLMB+ effective March 1, 2016 due to gross income exceeding the program limit.

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 Milwaukee,
Wisconsin, this 6th day of July, 2016

\s _____
Debra 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 July 6, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability