



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MQB/173663

PRELIMINARY RECITALS

Pursuant to a petition filed April 14, 2016, under Wis. Stat. §49.45(5), and Wis. Admin. Code §HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA), a telephonic hearing was held on May 17, 2016, from Milwaukee, Wisconsin. The record was held open 7 days post-hearing to allow time for petitioner to submit additional evidence, which was received.

The issue for determination is whether the agency correctly determined petitioner’s Medicare Savings Program benefits effective April 1, 2016.

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:  HSPC Sr.
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kelly Cochran
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. Petitioner applied for Medicare Savings Program (MSP) benefits on March 11, 2016. On March 17, 2016 she requested the MSP be backdated to January 1, 2016.

3. Petitioner was found eligible for MSP, specifically the QMB program, effective April 1, 2016.

DISCUSSION

Qualified Medicare Beneficiary (QMB), Special Low Income Medicare Beneficiary (SLMB), and SLMB Plus are MA programs which provide assistance with Medicare Part B premiums for persons whose incomes are over the regular Medical Assistance limits. All three Medicare Savings Programs pay the entire Part B premium. See the *Medicaid Eligibility Handbook (MEH)*, §32.1.1 for a full description of the programs. It is available online at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm>.

There was no dispute that petitioner applied for the MSP on March 11, 2016 and that she was eligible effective April 1, 2016. This was done in accord with the policy that states, “For initial applications, QMB benefits begin on the first of the month after the month in which the individual is determined to be eligible/confirmed in CARES.” *MEH* §32.7.1.1.

However, petitioner contends that she applied for MSP in January 2016 and requests MSP for the January-March timeframe. It is a well-established principle that a moving party generally has the burden of proof, especially in administrative proceedings. *State v. Hanson*, 295 N.W.2d 209, 98 Wis. 2d 80 (Wis. App. 1980). In a case involving an application for assistance, the applicant has the initial burden to establish he or she met the application requirements. The burden then shifts to the agency to explain why it concluded the applicant was not eligible for the requested benefits. The petitioner testified that she applied by phone for MSP in January. She was allowed time after the hearing to submit proof of the application filing or approval. None of the information submitted post-hearing shows that an earlier application was filed. She submitted the summary from her March application (which shows nothing of a January MSP application) and a letter she submitted to the agency in January requesting that her husband be removed from her case, and a copy of a court document showing legal separation from her husband (again, neither of which shows a January application for MSP).

To apply for MA of any type, MA applicants have the choice of one of the four following methods to apply:

- ACCESS: access.wisconsin.gov/access/.
- Mail-in using the Wisconsin Medicaid for the Elderly, Blind, or Disabled Application Packet ([F-10101](#)).
- Telephone interview. When a request for assistance is made by phone, the filing date is not set until a signed application and/or registration form is received by the agency.
- Face-to-face interview.

MEH §2.2.

A valid application for Medicaid must include the applicant’s:

1. Name,
2. Address, and
3. Signature:
 - In the Signature Section of the Medicaid application ([F-10101](#)),
 - On the Medicaid, BadgerCare Plus, and Family Planning Only Services Registration Application ([F-10129](#)),
 - In the Signature Section of the BadgerCare Plus Application Packet ([F-10182](#)),
 - An electronic signature in ACCESS, **or**
 - Telephonically.

MEH §2.4.

All applications received by an agency (except those submitted from the FFM) must be processed and eligibility approved or denied as soon as possible but no later than 30 calendar days from when the agency receives the application. This includes issuing a Notice of Decision.

MEH §2.7.1.

The *applicant* or his or her representative (see below) must sign **one** of the following:

- Paper application form
- Signature page of the Application Summary
- ACCESS or *FFM* application form with an electronic signature
- Telephonically

MEH §2.5.1 .

There is no evidence by way of an application form, confirmation of a signature from the petitioner, an application summary that would have been mailed to petitioner, a notice of decision issued to petitioner regarding eligibility, and no Case Comments to reflect that any application for MSP was done in January. Case Comments do support that she was providing proof of her separation, but there is nothing showing any request for MSP. Her documents provided post-hearing do not show it either. Her testimony was that she had proof of the January application and a notice for her eligibility, however, that is not what she provided. Accordingly, the preponderance of the evidence shows that the agency properly processed her eligibility for MSP in accordance with the policy and issued her the benefits effective April 1, 2016.

CONCLUSIONS OF LAW

The agency correctly determined petitioner's Medicare Savings Program benefits effective April 1, 2016.

THEREFORE, it is

ORDERED

The petition for review herein 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 20th day of June, 2016

\sKelly Cochrane
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 June 20, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability