



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

MQB/143329

PRELIMINARY RECITALS

Pursuant to a petition filed August 24, 2012, 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, a hearing was held on November 15, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly paid the Petitioner's SLMB and SLMB+ benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Alma Lezama

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. Petitioner was eligible for SLMB+ benefits from May 1, 2007 – August 31, 2009. The Petitioner was eligible for SLMB benefits from September 1, 2009 – December 31, 2009.

3. On March 9, 2009, the agency paid the Petitioner's premiums of \$771.20 for the period of September 1, 2008 – September 30, 2009.
4. On July 16, 2012, the Petitioner received a letter from the Social Security Administration (SSA) notifying him that the Wisconsin agency will pay for his Medicare premiums and that he will receive a refund for those premiums that the state was responsible for paying. The SSA letter indicates that he was due \$1,428 for premiums previously deducted from his monthly payments. It further informs him that \$928.20 was deducted to pay for past due child support payments. His remaining refund was \$499.80. The Petitioner received the refund of \$499.80 from SSA.
5. On July 20, 2012, the state agency issued a positive notice to the Petitioner notifying him that the agency manually approved Medicare Premium Assistance SLMB+ for the period of May, 2007 – August, 2008 and SLMB for the period of October, 2009 – December, 2009. The agency processed the manual approval on April 24, 2012. On June 8, 2012, the agency paid the Petitioner's premiums of \$1,519.20 for the period of May 1, 2007 – August 31, 2008. On June 8, 2012, the agency paid the Petitioner premiums of \$289 for the period of October 1, 2009 – December 31, 2009.
6. On August 24, 2012, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

Qualified Medicare Beneficiary (QMB), Special Low Income Medicare Beneficiary (SLMB), and SLMB Plus (SLMB+) are programs which provide assistance with Medicare Part B premiums for persons whose incomes are over the regular Medical Assistance limits. All three programs pay the entire Part B premium. See the MA Handbook, Appendix 32.1.1 for a full description of the programs.

The state agency found the Petitioner eligible for SLMB and SLMB+ and paid the premiums on his behalf for the period of May 1, 2007 – December 31, 2009. The state agency did not pay the Petitioner's premiums for the periods of May 1, 2007 – August 31, 2008 and October 1, 2009 – December 31, 2009 until June 8, 2012. As a result, the Petitioner was owed a refund for the premium amounts that were deducted from his SS check during that time. According to the July 16, 2012 letter from the SSA, that agency calculated the amount that was deducted as \$1,428 and it diverted \$928.20 of that amount for past due child support. The Petitioner disputes that he owed child support and he disputes the amount that SSA determined as the deductions it took from his SS check to cover the Medicare premiums.

The state agency contends that it has properly paid for the Petitioner's SLMB and SLMB+ premiums and the Petitioner's dispute over the amount he is owed is with the SSA. I agree. The agency has properly paid the Petitioner's premiums, albeit many years later, and he is owed a refund from SSA for any premiums that were paid by the state agency and for which the Petitioner had money deducted from his check. However, if he disputes the amount of the refund or any child care intercept, his dispute is with the SSA, not the state agency. I have no authority or jurisdiction over actions taken by the SSA.

CONCLUSIONS OF LAW

The agency properly determined and paid the Petitioner's SLMB and SLMB+ benefits. Any dispute the Petitioner has with regard to a refund of premiums deducted from his Social Security check is with the Social Security Administration. The DHA has no authority or jurisdiction over actions taken by the SSA.

THEREFORE, it is

ORDERED

That the petition be, and hereby is, dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 11th day of December, 2012

\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 December 11, 2012.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability