



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

MQB/143342

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 telephone hearing was held on September 26, 2012, at Milwaukee, Wisconsin. At the request of the county agency, the record was held open for 10 days for the submission of additional information.

The issue for determination is whether the Department, by its agent, correctly discontinued the petitioner's Qualified Medicare Beneficiary benefits effective September 1, 2012, due to income in excess of program limits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Catherine Mays, HSPC
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kenneth D. Duren, Assistant Administrator
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. She is a one-person household and was receiving Qualified Medicare Beneficiary benefits, i.e., Medicare Part B premiums were paid on her behalf by the Department, in at least August, 2012.
2. On July 23, 2012, the Department reviewed the petitioner's eligibility and issued a Notice to her informing her that her Qualified Medicare Beneficiary premium benefit would end, effective September 1, 2012, because her countable income of \$1,533.50 exceeded program limits.

3. The agency determined that the petitioner was earning \$1,134 per month from a job with First Choice Healthcare; and that she was also receiving \$1,019 per month in Social Security benefits. After a \$65 and ½ income disregard was applied per MA rules, the agency determined that the petitioner's countable income for QMB purposes was \$1,553.50.
4. The petitioner began receiving \$1,019 in Social Security Benefits effective September 1, 2012. See, Exhibit #4, p. 5 "SSI-RELATED MA INDIVIDUAL INCOME BUDGET" screen run on September 26, 2012. The petitioner works 31.5 hours per week at \$9 per hour. (31.5 x 9 = \$283.50 per week; x 4 weeks = \$1,134 of estimated earned income.) Ibid.
5. On August 24, 2012, the petitioner filed an appeal in the instant case contesting the discontinuance of her Qualified Medicare Beneficiary premium payments by the Department; benefits were continued pending the hearing decision.

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. Medicaid Eligibility Handbook (MEH), § 32.1.

As Medicare is an insurance program, it charges premiums. *Wisconsin* Medicaid pays some or all of their Medicare premiums for those who qualify (Medicare beneficiaries). There are four types of Medicare beneficiaries:

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

MEH, § 32.1.1. The category of eligibility depends on the recipient's income. Benefits also differ from category to category. MEH, §§ 32.1-5.

A person who is receiving SSI and is a MA recipient is also automatically eligible for QMB/SLMB/SLMB+ benefits, *if* the applicant also meets the financial criteria, i.e., income and asset eligibility limits. Wis. Stat. § 49.47(1)(e), MEH, §32.1.

The QMB/SLMB/SLMB+ net income for social security recipients is the gross social security income minus the standard deduction (i.e., \$20). MEH, § 15.3.8. If the person has earned income, then the first \$65, plus ½ of the earned income is also deducted, as occurred here. MEH § 15.7.5. See, Exhibit #4, at p.5. The QMB income limit is 100% of the federal poverty level (FPL). MEH, § 32.2. The SLMB limit is at least 100% of the FPL, but less than 120%. MEH, § 32.3. SLMB+ income must be at least 120% of the FPL, but less than 135%. MEH § 32.4. During petitioner's application period, the federal poverty levels for a household of one were \$930.83 (100%) for QMB; \$1,117 (120%) for SLMB; and \$1,256.63 (135%) for SLMB+. MEH § 39.5.

The county agency correctly discontinued the petitioner's QMB benefits because petitioner's net income of \$1,553.50 was above the income limits for QMB as well as SLMB and SLMB+ benefits. The petitioner did not contest her net income as indicated in the Findings of Fact above, but explained that she needed more money and could not afford the premium she must now pay herself directly.

However, I can only conclude that the county agency correctly discontinued petitioner's QMB benefits effective September 1, 2012, due to income above the income eligibility limits.

CONCLUSIONS OF LAW

The county agency correctly discontinued petitioner's QMB benefits effective September 1, 2012, due to income above the income eligibility limits.

THEREFORE, it is

ORDERED

The petition for review herein be and the same is hereby 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 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, Room 651, 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 Madison,
Wisconsin, this 3rd day of October, 2012

Kenneth D. Duren, Assistant Administrator
Administrative Law Judge
Division of Hearings and Appeals

c: Milwaukee Enrollment Services - email
Department of Health Services - email



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The preceding decision was sent to the following parties on October 3, 2012.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability