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[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

MQB/143516

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 31, 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(MA), a hearing was held on October 17, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the Department has correctly determined that the petitioner is not eligible, due to excess income, for 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, HSPC Sr.  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Nancy J. Gagnon (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]), age 70, is a resident of Milwaukee County.
2. The petitioner has received State Supplemental Security benefits (not federal SSI) since at least 1995. As a result of her State Supplemental Security benefit status, the petitioner was certified for Medicaid.

3. The petitioner's income exceeded the limit for State Supplemental SSI benefits in 2009, but the Department continued to erroneously certify her for this benefit. This was not an error by the petitioner. The Department belatedly realized its error, and the petitioner's State Supplemental SSI benefits will end by October 31, 2012.
4. On August 9, 2012, the Department issued written notice to the petitioner advising that she would not receive Medicare Premium Assistance effective September 1, 2012, due to excess income.
5. The petitioner's monthly income for September and October 2012 was \$1,803.78 (\$1,780.00 Social Security [not SSI] plus \$23.78 State Supplemental SSI). The petitioner's income from November 1, 2012 forward will be \$1,780.00. In calculating countable income for Medicare Premium Assistance purposes, the Department always subtracts a \$20 unearned income disregard, which leaves **\$1,760** to be considered here. The petitioner's rent expense is not a factor in the eligibility calculation for Medicare Premium Assistance.

### 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 is an insurance program that 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 ).

*MA Eligibility Handbook (MEH)*, 32.1.1, online at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm>. QMB pays for Medicare Part A and B premiums, SLMB and SLMB+ pay Medicare Part B premiums, and QDWI pays Part A premiums. *Id.*, §32.1.3. 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*, 32.2 – 32.5. Gross income is used in income testing. *MEH*, 15.1.5 & 32.1.1.

In 2012, 100% of the federal poverty level for one person is \$930.83, 120% is \$1,117, and 135% is \$1,256.63. *Id.*, 39.5. Because the petitioner's income exceeds the QMB, SLMB, and SLMB+ amounts, the agency declined to provide her with the SLMB+ or any other form of Medicare Premium Assistance. Thus, the agency acted correctly regarding Medicare Premium Assistance status here.

As an aside, the hearing record was held open for 7 days to give the Department representative an opportunity to do research to determine why the petitioner had been certified for some form of Medicaid or Medicare Premium Assistance in the past year (given her income level). *E.g.*, "503" Medicaid status needed to be ruled out. The research was done, which is appreciated, but it did not make it particularly clear as to why the petitioner was open for some level of coverage in the prior year.

**CONCLUSIONS OF LAW**

1. The county agency correctly determined that the petitioner was not eligible for Medicare Premium Assistance, due to excess income.

**THEREFORE, it is**

**ORDERED**

That the petition 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 Madison,  
Wisconsin, this 26th day of November, 2012

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\sNancy J. Gagnon  
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 November 26, 2012.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability