



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MQB/143540

PRELIMINARY RECITALS

Pursuant to a petition filed August 29, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Walworth County Department of Human Services in regard to Medical Assistance, a hearing was held on October 10, 2012, at Elkhorn, Wisconsin.

The issue to be determined is whether Walworth County Department of Human Services (the agency) correctly terminated Petitioner's Medicare Premium Assistance (SLMB) benefits, effective September 1, 2012.

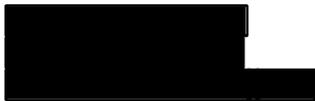
The record was held open until October 16, 2012, to give the agency an opportunity to submit copies of the Medicaid budget print out for September 2012. On October 11, 2012, the agency submitted a budget printout for October 2012. In addition, the agency also submitted a notice dated October 2, 2012, indicating that   SLMB benefits for September 2012 were restored, pending the outcome of the fair hearing request. The documents have been marked collectively as Exhibit 7.

The record was also held open to give Petitioner an opportunity to submit bank records and a statement from the Department of Veterans Affairs indicating that it was withholding \$250 per month for child support, from Petitioner's monthly check. The documents were received on October 11, 2012 and have been marked collectively as Exhibit 8.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Sandy Cross

Walworth County Department of Human Services
W4051 County Rd NN
Elkhorn, WI 53121-1006

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Walworth County.
2. On August 24, 2012, the agency sent Petitioner a notice of adverse action indicating that his SLMB benefits would be ending effective September 1, 2012, because his income was over the program limit. (Exhibit 6, pg. 11)
3. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on August 29, 2012. (Exhibit 1)
4. At the time in question, Petitioner's sole source of income was from a pension from the Department of Veteran's Affairs, in the amount of \$1337.00 per month. This has been so, since December 1, 2011. (Exhibit 6, pg. 4; Petitioner's testimony)
5. Petitioner paid and continues to pay child support in the amount of \$173.00 per month. (Exhibit 6, pg. 2)
6. Effective November 1, 2012, Petitioner will be having \$250.00 deducted from his pension check for child support purposes. (Exhibit 8)

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 the Medicare premiums for those who qualify (Medicare beneficiaries). There are four types of Medicare beneficiaries and benefits differ from category to category:

1. Qualified Medicare Beneficiary (QMB),
This pays Medicare Part A and B premiums and Medicare deductibles;
2. Specified Low-Income Medicare Beneficiary (SLMB),
This pays for Medicare Part B premiums;
3. Specified Low-Income Medicare Beneficiary Plus (SLMB+) a/k/a Qualifying Individuals – 1 (QI-1),
This pays for Medicare Part B premiums;
4. Qualified Disabled and Working Individuals (QDWI).
This pays for Medicare Part A premiums.

MEH, §§ 32.1.1 and 32.1.3

A person who is receiving SSI and is a MA recipient is also 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*, §§ 32.2-32.5.

The category of eligibility depends on the recipients' income. *MEH* § 32.1.3.

Income is calculated as follows:

\$ Earned income

- \$65 and ½ earned income deduction
 + Unearned income (social security income, etc.)
 - Special exempt income as defined in *MEH §15.7.2* (i.e. child support)
 - \$20 standard deduction
 = Net income used to determine QMB/SLMB/SLMB+/QDWI eligibility

When counting social security income, use gross social security income. Gross social security income:

1. Of a self-payer = the social security check amount + Medicare premiums s/he has paid.
2. Of someone for whom the State is paying the premiums = the social security check amount.

Disregard the COLA (cost of living adjustment) increase for the current year until the month after the new federal poverty limits become effective.

MEH §§ 32.2-32.5

As applied to Petitioner, the calculation of income is as follows:

Zero earned income
 +\$1337.00 unearned income from VA Pension
 -\$173.00 special exempt income for child support
 -\$20.00 Standard deduction

 = \$1144.00 Net income

The income limit for the SLMB program is at least 100% of the Federal Poverty Level (FPL), but less than 120% of FPL. *MEH § 32.3.2* As of June 2012, 100% of FPL was \$930.83 per month, for one person and 120% of FPL was \$1117.00 per month, for one person. *MEH § 39.5*

Petitioner's income of \$1144.00 falls outside the program limits of \$930.83 to \$1117.00 for the SLMB program. Consequently, Petitioner was not eligible for the SLMB program as of September 1, 2012.

It should be noted that Petitioner's income does fall within the program limits of the SLMB+, which are 120% of FPL to 135% of FPL (\$1117.00 to \$1256.63 per month for one person.) *MEH §§ 32.4.2 and 39.5* As such, Petitioner and the Agency should evaluate Petitioner's case to see if he was otherwise qualified for the SLMB+ program as of September 1, 2012.

It should also be noted that effective November 1, 2012, Petitioner will be having \$250 deducted from his pension for child support purposes. That \$250 qualifies as special exempt income under *MEH §15.7.2*, and can be deducted from Petitioner's gross income when determining financial eligibility for Medicare Premium Assistance Programs. Depending on whether the \$250 was in addition to or instead of the \$173 per month that Petitioner currently pays for child support, the deduction would place him within the program limits for the SLMB program again, or the QMB program. As such, Petitioner and the agency should evaluate Petitioner's case to see if he would be eligible for the SLMB or QMB programs, effective November 1, 2012.

If Petitioner disagrees with the outcome of these eligibility determinations, he must file a NEW appeal.

CONCLUSIONS OF LAW

The agency correctly terminated Petitioner's SLMB benefits effective September 1, 2012 because his income was over the program limits.

THEREFORE, it is

ORDERED

That the agency evaluate Petitioner for eligibility for the SLMB+ program effective September 1, 2012 and for the SLMB and QMB programs effective November 1, 2012. The agency shall take steps to do this within ten days of this decision.

The petition, in all other respects, is dismissed because the agency correctly terminated Petitioner's SLMB benefits effective September 1, 2012.

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, 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 12th day of October, 2012.

Mayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals

c: Division of Health Care Access and Accountability, DHSADHCAA@Wisconsin.gov
HSDES.Department@co.washington.wi.us, HSDES.Department@co.washington.wi.us -
Walworth County



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 12, 2012.

Walworth County Department of Human Services
Division of Health Care Access and Accountability