



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

MQB/144841

PRELIMINARY RECITALS

Pursuant to a petition filed October 29, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Winnebago County Department of Human Services in regard to Medical Assistance, a hearing was held on November 28, 2012, at Oshkosh, Wisconsin. The hearing record was held open for five days for a re-computation by the county agency, which was received.

No issue remains for determination by the Administrative Law Judge.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

By: Atty. Dan Idzikowski
Legal Action of Wisconsin
404 N. Main St., Suite 702
Oshkosh, WI 54901

Respondent:

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

By: Leslie Vosters

Winnebago County Department of Human Services
220 Washington Ave.
PO Box 2187
Oshkosh, WI 54903-2187

ADMINISTRATIVE LAW JUDGE:

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

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Winnebago County.
2. The petitioner had an open SLMB case in September and October 2012, per a notice dated August 6, 2012. The petitioner's case was subsequently reviewed, and a determination was made

that the petitioner had gross monthly income of \$1,622.82, which put her over the income limits for either SLMB or SLMB+. On October 1, 2012, the agency issued written notice to the petitioner advising that her SLMB benefit would be discontinued effective November 1, 2012.

3. At hearing, the petitioner provided additional paystubs, and requested that her variable income be evaluated over a longer period of time. The agency agreed to perform the redetermination.
4. On December 3, 2012, the agency advised the Administrative Law Judge that the redetermination had been performed. The result was a decision that the petitioner was eligible for SLMB from November 2012 forward.

DISCUSSION

The petitioner contested the discontinuance of her SLMB effective November 1, 2012. The agency agreed to redetermine her income, and reached the conclusion that she was eligible for SLMB from November 1, 2012, forward. A review of the Department's CARES notice history shows that a notice was issued to the petitioner on November 30, 2012, advising that the petitioner was re-enrolled in SLMB effective December 1, 2012.

CONCLUSIONS OF LAW

No issue remains for resolution by the Administrative Law Judge because the agency has agreed that the petitioner is eligible for SLMB from November 1, 2012, forward.

THEREFORE, it is

ORDERED

That the petition herein is *remanded* to the county agency with instructions to certify the petitioner for SLMB from November 1, 2012, forward, if it has not already done so. This action shall be taken within 10 days of the date of this Decision.

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 29th day of December, 2012

\sNancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

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Madison, WI 53705-5400

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The preceding decision was sent to the following parties on January 2, 2013.

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