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[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

MQB/143272

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 20, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Fond Du Lac County Department of Social Services in regard to Medical Assistance, a hearing was held on December 10, 2012, at Fond Du Lac, Wisconsin.

The issue for determination is whether respondent correctly terminated petitioner's participation in the Medicare Premium Assistance program following petitioner's failure to submit requested verification information.

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: Molly Aird

Fond Du Lac County Department of Social Services  
87 Vincent Street  
Fond Du Lac, WI 54935-4595

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs

Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Fond Du Lac County.
2. The petitioner was an ongoing Medicare Premium Assistance recipient whose matter was reviewed on June 26, 2012. On June 27, 2012, respondent sent petitioner a "Notice of Action and

Proof Needed,” requesting that he sign his application , verify his checking account balance, and provide evidence of medical costs incurred. Exhibit 3E. When the agency did not receive that verification by July 13, 2012, it closed his Medicare Premium Assistance case.

3. The petitioner did not submit the information to the county agency before July 13, 2012.

### **DISCUSSION**

Qualified Medicare Beneficiary (QMB), Special Low Income Medicare Beneficiary (SLMB), and SLMB Plus 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. Applications for these programs are processed concurrently with Medical Assistance applications using the same processing rules.

Under MA rules assets must be verified. Wis. Adm. Code, §DHS 102.03(3)(h); MA Handbook, § 20.3.5. To verify means to establish the accuracy of verbal or written statements about an applicant’s circumstances. Handbook, § 20.1.1. An application for MA “shall be denied when the applicant or recipient is able to produce required verifications but refuses or fails to do so.” Wis. Adm. Code, §DHS 102.03(1); see also the MA Handbook, § 2.7.1.

The department takes a strict position concerning the completion of the application process. Once the time period for providing the verification has passed, the application is over. “If less than 30 days has passed since the client’s eligibility was denied, allow the client to re -sign and date the application or page one of the CAF [Combined Application Form] to set a filing date. If more than 30 days has passed since a client’s eligibility was denied and the client is not open for any other program, the client must file a new application to reopen his/her MA.” Handbook, § 2.9.2. The department does not allow for discretionary extensions in cases where information is not provided due to simple errors.

In addition, the application must be signed by either the applicant or the applicant’s representative. Handbook, § 2.5.1.

However, before the verification obligation can rest upon th e petitioner’s shoulders, he must be notified of what, exactly, the respondent seeks to verify. In the present case, the petitioner argues that he did not receive the request for verification correspondence. This is a very close case. Because I find the petitioner’s testimony regarding non -receipt of the request for verification to be credible, I will remand this matter to the respondent with instructions to restore petitioner’s benefits following receipt and approval of petitioner’s required verificatio n(s) and signature.

### **CONCLUSIONS OF LAW**

Petitioner failed to verify information essential to his renewal application because respondent’s Notice of Action and Proof Needed was never received by petitioner.

**THEREFORE, it is**

**ORDERED**

This matter shall be remanded to respondent with instructions to (1) within 10 days following the date of this Decision, re-send the Notice of Action and Proof Needed to petitioner, specifying a due date at least 10 days following the date of the notice; (2) review items of proof submitted by petitioner; and (3) if the proof is acceptable, restore petitioner’s benefits as of July, 2012. Items 2 and 3 shall be completed within 10 days following receipt of petitioner’s items of proof.

**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 2nd day of January, 2013

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\sPeter McCombs  
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 January 2, 2013.

Fond Du Lac County Department of Social Services  
Division of Health Care Access and Accountability