



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MQB/147753

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 28, 2013, under Wis. Stat., §49.45(5), to review a decision by the Oneida County Dept. of Social Services in regard to Medicare Premium Assistance, a hearing was held on April 18, 2013, by telephone. A hearing set for April 2, 2013 was rescheduled at the petitioner's request.

The issue for determination is whether Qualified Medicare Beneficiary (QMB) can be backdated.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Stephanie Schreiber  
Oneida County Dept. of Social Services  
P.O. Box 400  
Rhineland, WI 54501

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Oneida County.
2. Petitioner's Medicare Part B premiums were being paid by the state prior to November, 2012. Effective November 1, 2012, petitioner switched to the Medicaid Purchase Plan (MAPP) for Medical Assistance (MA), and her Part B premiums were not paid thereafter.

3. Petitioner applied for Medicare Premium Assistance on January 28, 2013. QMB opened effective February 1, 2013.

### DISCUSSION

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.

The programs have progressively higher income limits. The QMB income limit for one person is \$930.83. Handbook, App. 39.5. The SLMB limit is \$1,117. Handbook, App. 32.3 and 39.5. A person qualifies for SLMB Plus if income is below \$1,256.63. Handbook, App. 32.4 and 39.5.

For initial applications, QMB benefits begin on the first of the month after the month in which the individual is determined to be eligible. Handbook, App. 32.7.1.1. SLMB and SLMB+ can be backdated up to three months if all eligibility requirements are met. Handbook, App. 32.7.2. However, Department policy makes clear that SLMB and SLMB+ cannot be opened on a backdate if the person would have been eligible for QMB during the backdate months. Handbook, App. 32.8.2.

The Division of Hearings and Appeals is limited in its authority. It cannot make exceptions to clearly stated rules. Because the rules are clear about backdating of QMB eligibility, I must conclude that petitioner was ineligible until the month after she applied.

### CONCLUSIONS OF LAW

The county correctly started QMB eligibility for petitioner the month after she applied and was found eligible.

**THEREFORE, it is**

**ORDERED**

That 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 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 23rd day of April, 2013

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\sBrian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals



**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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on April 23, 2013.

Oneida County Department of Social Services  
Division of Health Care Access and Accountability