



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MQB/149780

PRELIMINARY RECITALS

Pursuant to a petition filed June 04, 2013, 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, a hearing was held on August 21, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Department erred in its denial of QMB benefits for April and May 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Paul Fredrickson
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner was enrolled in the QMB program.

3. On 3/5/13 the Department sent notice to petitioner informing her that she needed to provide certain documentary verification relating to program eligibility. The due date for this documentation was March 14, 2013.
4. On 3/19/13 the Department had not received the documentation and sent notice informing petitioner that her benefits would be ending on 4/1/13 due to failure to complete a renewal.
5. On 3/21/13, the petitioner contacted the agency and requested an extension of time in which to submit the documentation.
6. On 3/22/13 the Department mailed a new notice to petitioner informing her that the documentation was now due on April 10, 2013. This notice specified what documentation was required. The notice stated "if you do not provide the proof by the due date, benefits will be denied, decreased, or ended.
7. The agency terminated benefits effective 4/1/13 because it had not received the documentary verification.
8. Petitioner faxed the documentation on 4/6/13. The transmission was successfully sent to the MILES offices. For unknown reasons, the documentation was not processed.
9. Petitioner again provided the documents to MILES and the agency received the required verification documents on 5/8/13. The agency processed the verification and reopened QMB benefits effective 6/1/13.

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 their Medicare premiums for those who qualify (Medicare beneficiaries). There are four types of Medicare beneficiaries:

1. **Qualified Medicare Beneficiary (QMB)**,
2. Specified Low-Income Medicare Beneficiary (SLMB),
3. Specified Low-Income Medicare Beneficiary Plus (SLMB+) a/k/a Qualifying Individuals – 1 (QI-1), and
4. Qualified Disabled and Working Individuals (QDWI).

MEH, § 32.1.1. The category of eligibility depends on the recipient's income. Benefits also differ from category to category. MEH, § 32.1.3.

A person who is receiving SSI and is a MA recipient is also automatically 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., 32.3, 32.4, 32.5. QMB, SLMB, SLMB+ have the same asset eligibility limit. **The asset limit was \$6,600 for a household of 1**, and \$9,910 for a household of 2 during 2011; and then as of January 1, 2012 was increased to \$6,940 for a household of 1 and \$10,410 for a household of 2. MEH, § 32.6. Divestment of assets has no effect on QMB, SLMB, SLMB+, or QDWI eligibility. *Id.*

The QMB/SLMB/SLMB+ net income for social security recipients is the gross social security income minus the standard deduction. MEH, § 32.3.3. The QMB income limit is 100% of the federal poverty level

(FPL). MEH, § 32.3.3. The SLMB limit is at least 100% of the FPL, but less than 120%. MEH, § 32.3.2. SLMB+ income must be at least 120% of the FPL, but less than 135%. MEH § 32.4. Currently, the federal poverty levels for a household of one are \$930.83 (100%), \$1,117.00 (120%), and \$1,256.63 (135%).

An applicant for MA or a representative acting on the applicant's behalf is responsible for providing the agency with full, correct, and truthful information. Wis. Adm. Code §DHS 102.01(6). Income and assets must be verified. §DHS 102.03(3) (a) and (h). MA shall be denied when the applicant is able to produce the required verification but fails to do so. §DHS 102.03(1). (Emphasis added). If the applicant is unable to produce the verification, the agency must assist her/him. Id. An application must be processed within 30 days of its filing date. §DHS 102.04(1); §DHS 104.01(10). If there is a delay in securing information, the agency must notify the applicant of the delay and the reason for the delay. §DHS 102.04(1).

The Department interprets those requirements in its Income Maintenance Manual, Chapter I, Part C. Asset and income verification is mandatory. IMM, I-C-9.3.0 & 9.1.0. The county shall deny benefits when all of the following are true: (1) the applicant has been given adequate notice of the verification required, (2) the verification is necessary to determine current eligibility, (3) the applicant has the power to produce the verification, (4) the time allowed to produce the verification has passed. IMM, I-C-3.3.0. The agency generally should allow 10 days for verification, but it cannot deny an application until at least 31 days have passed since it was filed. IMM, I-C-5.1.0. In this case, the petitioner did not request any assistance from the county agency in obtaining asset or income verification.

Petitioner argues that she faxed in the requested verification prior to April 10, 2013. Petitioner presented documentation to the Department representative at the time of the hearing. Petitioner claimed that this documentation included a fax transmission confirmation that established that she sent the verification prior to the April 10, 2013 deadline. Petitioner subsequently provided this ALJ with the same documentation (ex. #2). I agree that the documentation reflects a fax transmission of 17 pages to the MILES offices on April 6, 2013. I am convinced that the failure to process the documents is not the fault of petitioner.

At the time of hearing, the Department, in essence, conceded that the documents may have been sent before the 4/10/13 deadline. But, the Department argued that this was a recertification that resulted in eligibility on the first day of the following month which would have been May 1, 2013. See MEH § 32.7.1.2. But the 3/22/13 notice that extended the deadline to April 10, 2013 for the verification does not suggest that the program benefits will terminate. The reasonable interpretation of that notice is that it superseded prior notices, including the one that stated that benefits would be ending on 4/1 due to verification not being received by the previous 3/14/13 due date. I read the various notices as indicating an extension of the enrollment and the document deadline. When the Department granted the extension to provide the documents it would appear to the reasonable person that the benefits would also continue uninterrupted as long as the documents were submitted. As discussed previously, the documents were submitted by April 10. I do not understand why benefits would have still terminated if the Department had processed the paperwork when it received it (which was likely on April 6, 2013).

Petitioner also argued an issue relating to her federal social security benefits. I have no authority to address any issue relating to reduction in federal benefits.

CONCLUSIONS OF LAW

Petitioner did not receive adequate notice that the Department was terminating QMB benefits effective 4/1/13.

THEREFORE, it is

ORDERED

That this matter is remanded to the Department and its county agent with instructions to provide enrollment in the QMB program for the months of April and May 2013 as if that coverage had been uninterrupted. The Department must provide any appropriate supplements and reimbursements required. These actions must be completed within 10 days.

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 11th day of September, 2013

\sJohn P. Tedesco
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 September 11, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability