



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MQB/149927

PRELIMINARY RECITALS

Pursuant to a petition filed June 12, 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 July 16, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly discontinued the Petitioner's Medicare assistance benefits (QMB) effective April, 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: Katherine May
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On March 13, 2013, the Petitioner completed a renewal for Medicare assistance benefits (QMB).
3. On March 14, 2013, a Notice of Proof was issued by the agency to the Petitioner requesting verification of checking and savings accounts.

4. Petitioner submitted the requested information to the agency. The bank statements showed the Petitioner's checking account balance of \$1,563.81 and savings account balance of \$37,396.70 on March 22, 2013.
5. On March 28, 2013, the agency issued a Notice of Decision to the Petitioner informing him that his QMB benefits would terminate effective May 1, 2013 due to his assets being over the program limit.
6. On June 12, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

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 \$6,940 for a household of 1 as of January 1, 2012. MEH, § 32.6. Divestment of assets has no effect on QMB, SLMB, SLMB+, or QDWI eligibility. Id.

The agency correctly discontinued the Petitioner's QMB benefits because Petitioner's assets exceeding \$38,000 was above the asset limit of \$6,940 for QMB benefits. The Petitioner did not dispute his assets as indicated in the Findings of Fact above, but questioned whether there was some exception given that he has little income and the assets noted are his only remaining assets. He further noted that as of the hearing date, his assets had been depleted to approximately \$35,000. Unfortunately, applicable law and policy do not provide for any exception whereby a person remains eligible for QMB in these circumstances. Accordingly, the agency correctly discontinued the Petitioner's QMB benefits effective May 1, 2013, due to assets above the QMB income eligibility limits.

CONCLUSIONS OF LAW

The agency properly terminated the Petitioner's QMB benefits due to assets exceeding the program limit.

THEREFORE, it is

ORDERED

That the petition be, and hereby is, 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 Milwaukee,
Wisconsin, this 27th day of August, 2013

\sDebra Bursinger
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 August 27, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability