



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MQB/149947

PRELIMINARY RECITALS

Pursuant to a petition filed June 10, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance, a hearing was held on July 10, 2013, at Racine, Wisconsin.

The issue for determination is whether the Racine County Department of Human Services correctly determined that Petitioner's QMB benefits began May 1, 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: Kathy Christman, Lead Financial Employment Planner
Racine County Department of Human Services
1717 Taylor Ave.
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Racine County.
2. On March 14, 2013, Petitioner applied for Medicaid and Medicare Premium Assistance. (Exhibit 10)

3. On April 16, 2013, the agency sent Petitioner a notice indicating that her application had been denied because she did not provide requested proof of information. (Exhibit 10)
4. On April 24, 2013, Petitioner filed a new application for Medicaid benefits along with the previously requested proof of information. (Exhibits 11 and 14)
5. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on June 10, 2013. (Exhibit 1)
6. On June 13, 2013, the agency sent Petitioner a notice that she qualified for Medicaid and QMB benefits, effective May 1, 2013. (Exhibit 17)

DISCUSSION

Petitioner filed an appeal, because she believes her QMB benefits should be back dated to March 14, 2013, when she first applied for benefits.

First, with regard to the denial of the March 2013 application for benefits, the petitioner's appeal is untimely. A hearing officer can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by a county agency concerning MA must be filed within 45 days of the date of the action. Wisconsin Stat. § 49.45(5); Income Maintenance Manual § 3.3.1. A negative action can be the denial of an application, the reduction of benefits, or termination of an ongoing case.

In this case, the negative action was the denial of Petitioner's March 2013 application. The date of that negative action was April 16, 2013. Consequently, Petitioner needed to file her appeal by May 31, 2013. The April 16, 2013 notice gave an appeal deadline of June 3, 2013. Petitioner did not file her appeal until June 13, 2013. As such, any appeal of the denial of the March 2013 application is untimely and there is no jurisdiction for review of that action.

Second, "Medicaid eligibility begins the first day of the month in which the valid application is submitted and all program requirements are met...", **but** QMB benefits, "begin the first of the month following the eligibility determination." *Medicaid Eligibility Handbook* §§2.8.1 and 32.7.1.1, *emphasis added*.

Petitioner did not meet all program requirements, including verification of income, until April 2013, when she filed her second Medicaid application. As such, Petitioner's eligibility for QMB was not determined until April 2013. Per Medicaid Eligibility Handbook §§2.8.1 and 32.7.1.1, Petitioner's QMB benefits correctly began on May 1, 2013, the month following the eligibility determination.

CONCLUSIONS OF LAW

The Racine County Department of Human Services correctly determined that Petitioner's QMB benefits began May 1, 2013.

THEREFORE, it is

ORDERED

That the petition 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 29th day of July, 2013.

\sMayumi M. Ishii
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 July 29, 2013.

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