



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MQB/150245

PRELIMINARY RECITALS

Pursuant to a petition filed June 25, 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 (MA), a hearing was held on July 24, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Department correctly whether the county agency correctly discontinued the petitioner's Medicare Premium Assistance/QMB benefit effective July 1, 2013. (Months prior to 7/1/13 were not identified as the issue in this hearing request).

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Mr. Lee Yang, HSPC
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]), age 52, is a resident of Milwaukee County.
2. The petitioner had an ongoing QMB case from August 2010 – June or July 2012, as a household of one person. Her QMB ended no later than August 2012, due to increased income

(Unemployment Compensation/“UC”). On June 19, 2012, the Department issued written notice to the petitioner advising that her QMB/SLMB benefit would be discontinued effective August 1, 2012. That notice advised that any appeal of that benefit discontinuance had to be filed by September 17, 2012. The petitioner did not timely appeal.

3. The petitioner’s case was updated in January 2013. On January 18, 2013, the Department issued written notice to the petitioner advising that she remained ineligible for QMB/SLMB due to excess income (appeal due by March 19, 2013). Her income at the time was Social Security plus UC of \$178 weekly.
4. The petitioner’s case was updated in April 2013 to remove her UC income. UC was issued to her throughout March 2013, but ceased April 2. The drop in income caused the petitioner to be eligible for QMB. Notice was issued on April 18, advising that QMB would open effective June 1, 2013.
5. The petitioner’s UC resumed May 31, 2013. On June 17, 2013, the Department issued written notice to the petitioner advising that her QMB/Medicare Premium Assistance would be discontinued effective July 1, 2013. The basis for discontinuance was increased income (UC). The petitioner appealed.
6. The petitioner’s income for July 2013 was projected to be \$662 in Social Security (before subtraction of a Medicare premium and a Social Security overpayment recovery) and \$158 weekly UC (\$632 monthly). These amounts total \$1,294, from which the Department automatically subtracts \$20.

The petitioner was an IRIS (a type of Medicaid waiver) recipient throughout 2013.

### 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.

Medicare is an insurance program that charges premiums. Wisconsin *Medical Assistance* (MA) pays some or all Medicare premiums for eligible persons through the subprograms described below:

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

*MA Eligibility Handbook (MEH)*, 32.1.1, online at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm>. QMB pays for Medicare Part A and B premiums, SLMB and SLMB+ pay Medicare Part B premiums, and QDWI pays Part A premiums. *Id.*, §32.1.3. Subprograms 1 through 4 are collectively referred to as Medicare Premium Assistance programs.

The income limit for QMB is up to 100% of the federal poverty level. For SLMB the limit is from 100% to 119%, and for SLMB+ it is 120% to 134% of the federal poverty level. *MEH*, 32.2 – 32.5. Gross income is used in income testing. *MEH*, 15.1.5 & 32.1.1.

From January through June, 2013, 100% of the federal poverty level for one person is \$930.83, 120% is \$1,117.00, and 135% was \$1,256.63. Effective July 1, 2013, 100% of FPL for one person is \$957.50, 120% is \$1,149.00, and 133% is \$1,292. Because the petitioner's income exceeds the SLMB amount, the agency declined to provide her with the QMB or SLMB form of Medicare Premium Assistance. The petitioner cannot receive SLMB+ because she is a Medicaid waiver participant. *MEH*, 32.4.1. Thus, the agency acted correctly here.

### **CONCLUSIONS OF LAW**

1. The county agency correctly determined that the petitioner was not eligible for Medicare Premium Assistance effective July 1, 2013, due to excess income.

**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 Madison,  
Wisconsin, this 26th day of July, 2013

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\sNancy J. Gagnon  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Wayne J. Wiedenhoef, Acting Administrator  
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 July 26, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability