



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MQB/150359

PRELIMINARY RECITALS

Pursuant to a petition filed June 28, 2013, under Wis. Stat., §49.45(5), to review a decision by the Dane County Dept. of Human Services to discontinue Medicare Premium Assistance, a hearing was held on July 31, 2013, by telephone.

The issue for determination is whether petitioner's income was calculated correctly.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Tracy Kok

Dane County Dept. of Human Services
1819 Aberg Ave., Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County.
2. Prior to the county action petitioner's Medicare Part B premium was paid through the Special Low Income Medicare Beneficiary (SLMB) program. A review was conducted in June, 2013.
3. Using petitioner's last four pay stubs, the county determined that her monthly earned income was \$441 (\$110.25 per week). Adding that to her social security and unemployment compensation, the county determined that monthly income was above the SLMB limit.

4. By a notice dated June 24, 2013, the county informed petitioner that SLMB would end effective July 1, 2013 because income was over the limit.
5. Petitioner's earned income fluctuates. The four pay stubs used by the county were from a high four-week income period. Petitioner's income in the past ten weeks averaged \$88.20 per week.

DISCUSSION

Qualified Medicare Beneficiary (QMB), 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 \$957.50. Handbook, App. 39.5. The SLMB limit is \$1,149. Handbook, App. 32.3 and 39.5. A person qualifies for SLMB Plus if income is below \$1,292.63. Handbook, App. 32.4 and 39.5. Because SLMB Plus eligibility is not automated, eligibility must be determined manually by the county worker. Handbook, App. 32.4.2, referencing "Process Help 61.6."

The county budgeted \$1,575.90 as petitioner's monthly income. With a standard \$20 deduction and the earned income deduction, that meant that income was \$1,302.90, which is above even the SLMB Plus limit.

As noted in the findings, the income amounts used by the county were inflated due to four high pay weeks. Since those four weeks petitioner's income has fluctuated downward. I took the average of the ten pay stubs petitioner provided me; the average was \$88.20 per week. I thus will remand the matter to the county with instructions to recalculate petitioner's SLMB and possibly SLMB Plus eligibility based upon the lower figure.

CONCLUSIONS OF LAW

The county used inflated income in determining petitioner's SLMB eligibility because it used four high pay weeks of petitioner's fluctuating income.

THEREFORE, it is

ORDERED

That the matter be remanded to the county with instructions to re-determine petitioner's SLMB and SLMB Plus eligibility effective retroactive to July 1, 2013 using \$88.20 as petitioner's weekly earned income amount. The county shall do the re-determination and shall grant appropriate eligibility within 10 days of this decision.

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 5th day of August, 2013

\sBrian C. Schneider
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 5, 2013.

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