



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MQB/150671

PRELIMINARY RECITALS

Pursuant to a petition filed July 17, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Dunn County Department of Human Services in regard to Medical Assistance, a hearing was held on August 19, 2013, at Eau Claire, Wisconsin.

The issue for determination is ether the county agency correctly determined that the petitioner's income exceeds the limit for Medicare Premium Assistance.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Petitioner's Representative:



Respondent:

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

By: No appearance

Dunn County Department of Human Services
808 Main Street
PO Box 470
Menomonie, WI 54751

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [redacted]) is a resident of Eau Claire County.
2. The petitioner receives medical assistance through the Medicaid Purchase Plan.

3. The petitioner works 20 hours per week and earns \$8.35 per hour.
4. The petitioner receives \$902 per month in SSDI.
5. The poverty level for a single person is \$967.50 per month. *Medicaid Eligibility Handbook*, § 39.5.

DISCUSSION

The petitioner seeks Medicare Premium Assistance through one of the three programs meant to provide this assistance. The Specified Low Income Medicare Beneficiary (SLMB) and Specified Low Income Medicare Beneficiary Plus (SLMB+) are medical assistance sub-programs mandated by Wis. Stat. § 49.468(1m)(a) that pay their participants' Medicare Part B premiums. *Medical Eligibility Handbook*, § 32.1.1. The Qualified Medicare Beneficiary (QMB) program pays not only the Medicare Part B premium but also some Medicare deductibles and co-payments. The income limit is less than 100% of the federal poverty limit for QMB, 100% to 120% for SLMB, and 120% to 135% for SLMB+. Each uses the same rules for determining financial eligibility as Medicaid. *Medicaid Eligibility Handbook*, § 32.1.1. A person cannot receive SLMB+ if he is eligible for medical assistance. When determining benefits, \$20 of all income and \$65 plus one-half of the remaining earned income is excluded. *Medicaid Eligibility Handbook*, § 15.7.5.

The petitioner receives medical assistance through the Medicaid Purchase Plan, so he is ineligible for SLMB+. This means that to receive benefits his income cannot exceed 120% of the federal poverty level, or \$1,149. *Medicaid Eligibility Handbook*, § 39.5. He receives \$907 per month in SSDI payments. In addition, he earns \$8.35 per hour and works 20 hours per week. This comes to \$167 per week. Medical assistance income is multiplied by four to get a monthly amount of \$668. Subtracting \$65 from that leaves \$603. Half of that is \$301.50. This along with \$65 and \$20 is subtracted from his \$1,575 monthly income to get his net income, which is \$1,188.50. Because this exceeds \$1,149, I must uphold the agency's decision.

In making this decision, I am aware that the petitioner has other expenses such as rent, cab fare, and utilities. However, he is entitled to only those deductions specifically allowed by the program's rules. Because the program's rules do not allow these other deductions, I must uphold the agency's decision.

CONCLUSIONS OF LAW

The county agency correctly determined that the petitioner is ineligible for Medicare Premium Assistance because his income exceeds the program's limit.

THEREFORE, it is

ORDERED

The petitioner's appeal 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 24th day of September, 2013

\sMichael D. O'Brien
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 24, 2013.

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