



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MQB/152181

PRELIMINARY RECITALS

Pursuant to a petition filed September 17, 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 October 17, 2013, at Racine, Wisconsin.

The issue for determination is whether there is jurisdiction to order a refund Medicare Premiums incorrectly deducted by the Social Security Administration and whether the agency can backdate Petitioner’s QMB benefits.

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: Rhonda Kramer, Lead Economic Support Specialist
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 (CARES # ) is a resident of Racine County.
2. Petitioner filed an application for QMB benefits. (Testimony of Ms. Kramer)
3. Petitioner provided all of the requested verification by June 19, 2013 (Testimony of Ms. Kramer)

4. On May 30, 2013, the agency sent Petitioner a notice of Proof Needed requesting verification of certain assets and medical costs. (Exhibit 3)
5. On June 21, 2013, the agency sent Petitioner a notice indicating that as of July 1, 2013, he would be receiving QMB benefits. (Exhibit 4)
6. On July 29, 2013, the agency sent Petitioner a notice indicating that he would receive QMB benefits from May 1, 2013 through June 30, 2013 and from September 1, 2013 forward. (Exhibit 5)
7. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on September 17, 2013. (Exhibit 1)

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 the Medicare premiums for those who qualify (Medicare beneficiaries). There are four types of Medicare beneficiaries and benefits differ from category to category:

1. Qualified Medicare Beneficiary (QMB),
This pays Medicare Part A and B premiums and Medicare deductibles;
2. Specified Low-Income Medicare Beneficiary (SLMB),
This pays for Medicare Part B premiums;
3. Specified Low-Income Medicare Beneficiary Plus (SLMB+) a/k/a Qualifying Individuals – 1 (QI-1), This pays for Medicare Part B premiums;
4. Qualified Disabled and Working Individuals (QDWI).
This pays for Medicare Part A premiums.

MEH, §§ 32.1.1 and 32.1.3

A person who is receiving SSI and is a MA recipient is also 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, §§ 32.2-32.5*.

Back Dating Benefits

QMB benefits begin the first of the month following the eligibility determination. *MEH §§2.8.1 and 32.7.1.1* “For re-certifications, QMB benefits begin on the first of the month following the review due month, regardless if the review was confirmed in the review due month or the month following the review due month.” *MEH §32.7.1.2*

QMB benefits can be backdated under certain conditions that are described in the Medicaid Eligibility Handbook §32.8.1:

Occasionally, the benefits of a person who is eligible for *QMB*  did not begin on the first of the following month as they were supposed to. This can occur if:

1. The eligibility process was not completed within 30 days.
2. Certification of eligibility was not completed.

3. A fair hearing decision has ordered backdated QMB benefits.

To backdate QMB benefit, complete an [F-10110](#) (formerly DES 3070) certification form and return to:

1. Mail:
HP Enterprise Services
P.O. Box 7636
Madison, WI 53707
2. Fax: (608) 221-8815

It is undisputed that Petitioner applied for QMB benefits in May 2013 and completed providing verification in June 2013. Given this, it is not clear why the agency determined that Petitioner's benefits should begin May 1, 2013. None-the-less, there is nothing in the record that would support backdating Petitioner's QMB benefits earlier than May 1, 2013. Indeed, the eligibility determination that triggers the begin date for QMB benefits cannot be made before an application is filed.

Refunding Petitioner for Medicare Part A and B premiums deducted by the Social Security Administration

Petitioner was deemed eligible for QMB benefits for May and June 2013. (Exhibit 5) Petitioner testified that the Social Security Administration deducted premiums from his Social Security Checks for those months, but sent him a refund in August 2013.

Petitioner testified that the Social Security Administration deducted premiums from his Social Security Checks for July 2013 and August 2013. Petitioner testified that the Social Security Administration ceased deducting premiums from his checks beginning in September 2013.

The notice issued July 29, 2013 made no determination with regard to July 2013 and August 2013 QMB benefits. It only stated Petitioner was eligible for May 1, 2013 through June 30, 2013 and from September 1, 2013 forward. It is likely that this information was sent to the Social Security Administration, which is why the Social Security deducted Petitioner's Medicare premiums from his checks in July and August 2013.

The agency does not dispute the fact that Petitioner was eligible for QMB benefits in July and August 2013 and it asserts that Medicaid paid Petitioner's Medicare premiums for those months. However, it does not appear this was clearly communicated in the July 29th notice or to the Social Security Administration. The agency will have to correct this.

Petitioner will have to contact the Social Security Administration for a refund of the premiums deducted from his checks for July and August 2013. There is no jurisdiction for the Division of Hearings and Appeals to order correction of that action. (See Wis. Admin. Code §HA3)

CONCLUSIONS OF LAW

1. Petitioner's QMB benefits may not be backdated.
2. There is no jurisdiction to order the agency to refund Medicare premiums incorrectly deducted by the Social Security Administration.

THEREFORE, it is

ORDERED

That the agency 1) issue to Petitioner a notice of decision clearly stating his eligibility for QMB benefits in July and August 2013; 2) review its communications with the social security administration, i.e. review

the data exchange; and 3) clearly communicate to the Social Security Administration Petitioner's eligibility for QMB benefits in July 2013 and August 2013. The agency shall take all administrative steps necessary to complete these tasks within ten 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 Milwaukee,
Wisconsin, this 1st day of November, 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 November 1, 2013.

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