



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MQB/152902

PRELIMINARY RECITALS

Pursuant to a petition filed October 15, 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, a hearing was held on November 19, 2013, at Milwaukee, Wisconsin.

The issues for determination are whether Petitioner's appeal is timely as to a July 1, 2013 discontinuance of her Medicare Savings Plan (MSP) benefits and whether Petitioner's MSP-Qualified Medicare Beneficiary (QMB) eligibility may be backdated.

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, Room 651
Madison, Wisconsin 53703

By: Katherine May
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. Petitioner was a recipient of Qualified Medicare Beneficiary benefits (QMB) and had a review due by the end of June 2013. That review was not completed and the agency then sent Petitioner a Notice of Decision dated June 18, 2013 that informed her that her QMB was closing July 1, 2013. The Notice was sent to Petitioner's street address and appeal rights were included in that notice and the appeal deadline was noted to be August 16, 2013. No appeal was filed.
3. Petitioner again applied for the QMB benefit in mid-September 2013. That application was approved and QMB benefits resumed October 1, 2013. Petitioner wants to have the eligibility backdated and filed this appeal on October 15, 2013 seeking that backdating.

DISCUSSION

Medicare is an insurance program and charges coinsurance, deductibles and monthly premiums. These out-of-pocket expenses of Medicare beneficiaries are generally referred to as 'Medicare cost-sharing.' For certain Wisconsin residents who receive Medicare, Wisconsin Medicaid pays some or all of their Medicare cost-sharing. These State Medicaid programs are called Medicare Savings Programs (MSP). *Medicaid Eligibility Handbook (MEH)*, §32.1.1.

In order for the Division of Hearings and Appeals to have authority to make a determination on the merits of a matter it must have authority to do so. It does not have authority where an appeal is untimely. A timely hearing request concerning Medical Assistance, that includes MSP matters, must be filed within 45 days of the notice of the county agency decision. §49.45(5)(a), *Wis. Stats.* Here it is apparent that the hearing was requested after the August 16, 2013 appeal filing deadline for the July 1, 2013 case closure. Thus the appeal is untimely and the Division of Hearings and Appeals without authority to act as to that issue. The appeal is timely as to the backdating denial based on the September 2013 reapplication for QMB.

QMB benefits pay Medicare Part A & B premiums and Medicare deductibles and coinsurance. Petitioner reapplied for the QMB in September 2013. The case opened as of October 2013. Per the *MEH*:

32.7.1.1 QMB Applications

For initial applications, QMB benefits begin on the first of the month after the month in which the individual is determined to be eligible/confirmed in CARES.

MEH, §32.7.1.1.

Thus the agency correctly started Petitioner's QMB benefits on October 1, 2013.

At the hearing Petitioner asked that this Decision be sent to the above post office box. She should be aware that this is not an address change with the local agency. If she wants to use the post office address as her address she should contact that local agency.

CONCLUSIONS OF LAW

That the agency correctly determined the eligibility date for Petitioner's QMB benefits.

THEREFORE, it is

ORDERED

That this 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, Room 651, 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 20th day of December, 2013

\sDavid D. Fleming
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 December 20, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability