



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MQB/154818

PRELIMINARY RECITALS

Pursuant to a petition filed January 13, 2014, 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 telephonic hearing was held on February 12, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the county agency correctly discontinued the petitioner’s SLMB benefits effective February 1, 2014, due to household income above the SLMB income eligibility limits.

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, HSPC senior
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County who resides in a household with her husband, [REDACTED]. See Exhibit 1. She receives Social Security Disability Income (SSDI) benefits.
2. The county agency learned that petitioner received a cost of living increase in her SSDI from \$926 to \$939 as of January 1, 2014.

3. The petitioner's husband earned income at [REDACTED] [REDACTED] [REDACTED] increased to \$1,088 every other week as of January, 2014 (\$2,176.00 per month).
4. The petitioner's total household income was \$3,102 as of January, 2014. Her net household income was \$1,961.50 as of January, 2014.
5. The petitioner's net income of \$1,961.50 (\$1,981.50 - \$20) was above the SLMB income eligibility limit of \$1,573.00 (as of 2-1-2014) and the SLMB + income limit of \$1,769.69 (as of 2-1-2014) for a household of two.
6. The county agency sent a December 31, 2013 Notice of Decision to the petitioner stating that her SLMB benefits would be discontinued effective February 1, 2014, due to net income above the SLMB (and SLMB+) income eligibility limits.

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 their Medicare premiums for those who qualify (Medicare beneficiaries). There are four types of Medicare beneficiaries:

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

MEH, § 32.1.1. The category of eligibility depends on the recipient's income. Benefits also differ from category to category. MEH, § 32.1.3.

A person who is receiving SSI and is a MA recipient is also automatically 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., 32.3, 32.4, 32.5. QMB, SLMB, SLMB+ have the same asset eligibility limit. The asset limit was \$6,940 for a household of 1 and \$10,410 for a household of 2 as of January 1, 2012, and then increased to \$7,080 for a household of 1, and \$10,620 for a household of 2 as of January 1, 2013. MEH, § 32.6. Divestment of assets has no effect on QMB, SLMB, SLMB+, or QDWI eligibility. *Id.*

The QMB/SLMB/SLMB+ net income for social security recipients is the gross social security income minus the standard deduction. MEH, § 32.3.3. The QMB income limit is 100% of the federal poverty level (FPL). MEH, § 32.3.3. The SLMB limit is at least 100% of the FPL, but less than 120%. MEH, § 32.3.2. SLMB+ income must be at least 120% of the FPL, but less than 135%. MEH § 32.4. Currently, the federal poverty levels for a household of two are \$1,310.83 (100%), **\$1,573.00 (120%)**, and **\$1,769.69 (135%)**.

The county agency correctly discontinued the petitioner's SLMB benefits because petitioner's net income of \$1,961.50 was above the income limits for SLMB as well as SLMB+ benefits. The petitioner did not contest her net income as indicated in the Findings of Fact above, but questioned whether there was some exception which might apply because her net income was about \$200 over the SLMB+ income limit of \$1,769.69. Petitioner explained that she needed assistance with her Medicare premiums. In reviewing

that question, applicable law and policy do not provide for any exception whereby a person remains eligible for SLMB (or SLMB+) if even a small amount above the income limits. Accordingly, the county agency correctly discontinued the petitioner's SLMB benefits effective February 1, 2014, due to income above the SLMB income eligibility limits.

CONCLUSIONS OF LAW

The county agency correctly discontinued the petitioner's SLMB benefits effective February 1, 2014, due to income above the SLMB income eligibility limits.

THEREFORE, it is

ORDERED

The petition for review herein be and the same is hereby Dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 20th day of March, 2014

\sGary M. Wolkstein
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 20, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability