



FH  
[REDACTED]

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

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MQB/154926

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed January 17, 2014, 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 February 20, 2014, at Menomonie, Wisconsin.

The issue for determination is whether the petitioner is entitled to retroactive Medicare Premium Assistance.

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: Paula Goodell

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 Dunn County.
2. The petitioner was an ongoing recipient of Medicare Premium Assistance.

3. On August 27, 2013, the Central Data Processing Unit requested that she verify her income and assets by September 5, 2013. She faxed the information to the number provided in that notice before it was due.
4. The Department notified the petitioner on December 4, 2013, that her Medicare Premium Assistance would end as of November 1, 2013, because she failed to verify her financial information.

### **DISCUSSION**

The Medicare Savings Program pays Medicare premiums for eligible recipients of SSI. These programs use the same rules for determining financial eligibility as Medicaid. *Medicaid Eligibility Handbook*, § 32.1.1. Recipients must complete an annual review before the last day on which they are certified for eligibility or that eligibility will end. *Medicaid Eligibility Handbook*, § 3.1.3. At the time of the review, recipients must verify information requested by the their workers. Workers must provide applicants at least 10 days to verify information. *Medicaid Eligibility Handbook*, § 20.7.1.1. *see also*, Wis. Admin. Code § DHS 102.03(1). Before ending benefits, the agency

shall give the recipient timely advance notice and explanation of the agency's intention to terminate MA. This notice shall be in writing and shall be mailed to the recipient at least 10 calendar days before the effective date of the proposed action. The notice shall clearly state what action the agency intends to take and the specific regulation supporting that action, and shall explain the right to appeal the proposed action and the circumstances under which MA is continued if a fair hearing is requested..

Wis. Admin. Code, § DHS 103.09(4)

The petitioner was an ongoing recipient of Medicare premium assistance whose benefits ended on November 1, 2013, because she allegedly failed to verify her financial information. It is difficult to determine exactly what happened because the agency did not submit any documents. The petitioner submitted the request for verification. It was dated August 27, 2013, and required her to submit the information by September 5, 2013. She contends she did so by facsimile transmission before September 5. She also contends that she heard nothing from the agency until January 2014, when she received a notice dated December 5, 2013, informing her that her benefits would end as of November 1. The agency does not dispute that the only notice that her benefits were ending was sent on December 5, 2013.

There is no way to know for sure what happened here, but the petitioner's story is one I hear multiple times each month: She contends she sent a document to the Central Data Processing Unit or consortium, and the CDPU has no record of it. No one from the CDPU testified. The county agency worker appeared but had no first-hand knowledge of the case. The petitioner did testify, and she seemed honest. Therefore, I will accept her testimony that she submitted the documents on time. Further, the Department's ending of her benefits was invalid because it did not properly notify her before doing so. She was reinstated into the program in February 2014, and there is no question that she met its financial qualifications during the three months she did not receive benefits. Therefore, I will order that she receive retroactive benefits for November 2013 through January 2014..

### **CONCLUSIONS OF LAW**

The Department improperly ended the petitioner's Medicare premium assistance benefits.

**THEREFORE, it is**

**ORDERED**

That this matter is remanded to the county agency with instructions that within 10 days of the date of this decision it take all steps necessary to reinstate the petitioner's Medicare premium assistance benefits retroactive to November 1, 2013.

**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 Madison,  
Wisconsin, this 6th day of March, 2014

---

\sMichael D. O'Brien  
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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 6, 2014.

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