



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MQB/155104

PRELIMINARY RECITALS

Pursuant to a petition filed January 27, 2014, under Wis. Stat., §49.45(5), to review a decision by the Sauk County Dept. of Human Services to discontinue Qualified Medicare Beneficiary (QMB) benefits, a hearing was held on March 20, 2014, by telephone.

The issue for determination is whether petitioner's QMB can be backdated after reopening.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Jody Simon
Sauk County Dept. of Human Services
P.O. Box 29
Baraboo, WI 53913

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sauk County.
2. Petitioner receives QMB benefits and FoodShare (FS). She had a review for both programs due by the end of September, 2013. She completed the renewal interview on September 5, and her case was pended for verification of her bank account balance, medical expenses, and a copy of the signed signature page. On September 17 the agency received the signature page and the medical expenses, but not the bank statement.

3. The bank account verification was necessary for QMB eligibility. The medical expenses were necessary for FS.
4. By a notice dated September 18, 2013, the county informed petitioner that both QMB and FS would end October 1, 2013 because she failed to provide verification. At that point the verification petitioner filed was not scanned into the system. The county worker found the verification soon after September 18.
5. On September 27, 2013, the county sent petitioner a notice that she would receive \$84 FS for October, but QMB was denied because she did not provide verification.
6. Petitioner filed the bank statement on November 26, 2013. The county worker informed petitioner that she had to reapply for QMB, which she did on December 13, 2013. By a notice dated December 13, the county informed petitioner that QMB would reopen January 1, 2014.
7. On January 27, 2014, petitioner filed this appeal seeking QMB for the months of October through December, 2013.

DISCUSSION

QMB, Special Low Income Medicare Beneficiary (SLMB), and SLMB Plus are programs which provide assistance with Medicare Part B premiums for persons whose incomes are over the regular Medical Assistance (MA) limits. All three programs pay the entire Part B premium. See the MA Handbook, Appendix 32.1.1 for a full description of the programs. QMB is mandated by the Wis. Stat., §49.468(1). A QMB recipient must complete a yearly review or have the case closed. MA Handbook, App. 32.10.

As with all MA programs, if a case is closed for more than 30 days, a new application must be filed. Handbook, App. 2.9.1. QMB benefits begin on the first of the month after eligibility is confirmed. Handbook, App. 32.7.1.1. Appeals of negative actions concerning QMB must be filed within 45 days of the negative action. Wis. Stat., §49.45(5); Wis. Admin. Code, §HA 3.05(3).

In this case petitioner's QMB closed October 1. On September 27, the county notified petitioner that FS were open for October, but QMB and MA were closed. Another notice dated October 7 (included with petitioner's prehearing brief) notified petitioner that FS would be reduced November 1, but there would be no changes to the health care benefit. Petitioner essentially had 45 days from October 1, 2013 to appeal. She did not do so.

I must conclude that I cannot order the QMB to be backdated. Petitioner's QMB closed October 1, 2013, and she did not get the matter resolved in October. Thus as of November 1 she had to file a new application for MA and QMB. She did so, but not until December. While the MA portion of the new application could be backdated, the QMB could not. I can find no error with the way that the county agency handled petitioner's case.

I note that petitioner testified that she is sure that she filed the back statement with the other verification on September 17. However, I cannot reach the issue of whether the county erred by closing petitioner's MA and QMB due to the appeal being filed so late. In addition, while it is true that a fair hearing judge can order QMB to be backdated, I do not have unfettered discretion to do so. I can do so only if an error occurred and an appeal is filed timely.

CONCLUSIONS OF LAW

Petitioner's appeal of a discontinuance of QMB benefits was filed untimely.

THEREFORE, it is

ORDERED

That 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 28th day of March, 2014

\sBrian C. Schneider
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 March 28, 2014.

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