



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MQB/156207

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 19, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane County Department of Human Services in regard to Medical Assistance, a hearing was held on May 05, 2014, at Madison, Wisconsin.

The issue for determination is whether the county agency correctly approved the petitioner's March, 2014 QMB re-application as of April 1, 2014 and refused to backdate those benefits.

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: Tari Donnelly, ESS  
Dane County Department of Human Services  
1819 Aberg Avenue  
Suite D  
Madison, WI 53704-6343

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County who received QMB (Qualified Medicare Beneficiary) benefits.
2. The county agency sent a November 14, 2013 Notice of Decision to the petitioner at her correct address stating that her QMB benefits would discontinue effective December 1, 2013, due to

petitioner's failure to timely provide required verification to the county agency. See Exhibit 1. That notice indicated that if petitioner wanted to appeal that decision, she must file her appeal at the Division of Hearings and Appeals (DHA) by January 16, 2014. Exhibit 1 was not returned to the county agency as undeliverable.

3. The petitioner failed to timely appeal to the Division of Hearings and Appeals (DHA) the December 1, 2013 discontinuation of her QMB benefits.
4. On March 3, 2014, petitioner contacted the county agency to re-apply for QMB benefits, and completed that application on March 5, 2014.
5. The county agency approved the petitioner's March, 2014 re-application for QMB benefits effective April 1, 2014 per Medicaid Eligibility Handbook, 32.7.1.1.

### **DISCUSSION**

The Medicaid Eligibility Handbook provides in pertinent part that: 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." Medicaid Eligibility Handbook, 32.7.1.1, "QMB application."

In this case, the county representative presented reliable evidence that petitioner did not contact the county agency until March 3, 2013 to request to re-apply for QMB benefits. Because her QMB benefits had been closed for more than 30 days (discontinued December 1, 2013), she was required to complete a new application for QMB benefits. The county agency completed petitioner's QMB re-application on March 5, 2013, and determined the petitioner was eligible for QMB effective April 1, 2014, the first of the month after the March, 2014 re-application. The county representative also explained that QMB benefits are not retroactive except in the specific exceptions stated in MEH 32.8.1. The petitioner's circumstances do not meet any of the limited and specific exceptions stated in MEH 32.8.1, and thus the county agency correctly denied petitioner's request for retroactive QMB benefits prior to April 1, 2014.

During the May 5, 2014 hearing, petitioner was argumentative and repeatedly interrupted both the county agency representative and this ALJ. Despite those rude interruptions, petitioner was unable to provide any testimony or evidence to refute the county agency's case. The petitioner made allegations during the hearing, but was unable to provide any reliable evidence for her allegations. The petitioner's testimony was questionable in its credibility.

The county agency's November 14, 2013 Notice of Decision (Exhibit 1) was sent to the petitioner at her correct address. The petitioner was unable to establish with any reliable evidence that she did not receive her November 14, 2013 notice which stated that her QMB benefits would discontinue effective December 1, 2013. See Finding of Fact #2 above. Furthermore, petitioner did not establish any problems with her mail delivery, and Exhibit 1 was not returned to the agency as undeliverable. The petitioner's assertion that she did not receive Exhibit 1 was not persuasive. It appeared from the petitioner's behavior during the hearing (and in reviewing case comments – Exhibit 4) that petitioner believed that if she just yelled enough the county agency would relent and she would receive backdated QMB benefits. See Exhibit 4 case comments. However, the county agency correctly followed Medicaid policy to open the petitioner's QMB benefits on the first of the month after the month in which she was determined eligible for QMB benefits, which is April 1, 2014 per Medicaid Eligibility Handbook, 32.7.1.1.

### **CONCLUSIONS OF LAW**

The county agency correctly approved the petitioner's March, 2014 QMB re-application as of April 1, 2014, and correctly refused to backdate those benefits prior to April 1, 2014.

**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 11th day of June, 2014

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\sGary M. Wolkstein  
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 June 11, 2014.

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