



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MQB/157120

PRELIMINARY RECITALS

Pursuant to a petition filed April 21, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Winnebago County Department of Human Services in regard to Medicare Premium Assistance, a hearing was held on June 19, 2014, at Neenah, Wisconsin.

The issue for determination is whether the Department correctly declined to certify the petitioner for SLMB+ Medicare Premium Assistance from November 2013 through April 2014.

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: Leslie Vosters, fair hearing coordr.
Winnebago County Department of Human Services
220 Washington Ave.
PO Box 2187
Oshkosh, WI 54903-2187

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of a one-person household in Winnebago County.

2. The petitioner applied for Foodshare, MAPP, and Medicare Premium Assistance (a/k/a Medicare Savings Plan or MSP) with the agency on February 10, 2014. MAPP is a form of Medicaid (MA). The application requested backdated Medicaid benefits (three month maximum).
3. The Department performed an intake appointment on February 17, 2014. The petitioner indicated a desire to be certified for MAPP at that time. On February 18, 2014, the Department issued an income verification request, and the petitioner submitted the requested verification in early March 2014.
4. On March 13, 2014, the Department issued written notice to the petitioner advising that he was eligible for the MAPP program from November 1, 2013, forward. It also advised that he was not eligible for “Medicare Premium Assistance (SLMB).”
5. The income used in the March 13, 2014 determination was Social Security Disability of \$1,281.90. In one portion of the March 13, 2014 notice, an incorrect income figure of \$1,381.90 was shown.
6. On March 27, 2013, the petitioner contacted the Department and advised that he would rather have SLMB+ than MAPP. On March 27, 2014, the Department issued written notice to the petitioner advising that he was eligible for SLMB+ (pays Medicare Part B premiums) beginning May 1, 2014.
7. The petitioner previously applied for MAPP and Medicare Premium Assistance on December 20, 2012. The Department issued written notice of denial on January 23, 2013. At page five, that notice advised the petitioner to file any appeal of that action no later than March 11, 2013. The petitioner filed no hearing request until April, 2014.

DISCUSSION

The petitioner’s concern regarding denial of MAPP or Medicare Premium Assistance in January 2013 will not be considered in this Decision, due to lack of jurisdiction. MA-related appeals must be filed within 45 days of the denial notice. Wis. Stat. § 49.45(5). This April 2014 hearing request is too late to allow consideration of the January 2013 denial. The petitioner’s concerns regarding benefits from November 2013 onward are discussed below.

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.

Medicare is an insurance program that charges premiums. Wisconsin *Medical Assistance* (MA) pays some or all Medicare premiums for eligible persons through the subprograms described below:

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

MA Eligibility Handbook (MEH), 32.1.1, online at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm> (viewed in July 2014). QMB pays for Medicare Part A and B premiums, SLMB and

SLMB+ pay Medicare Part B premiums. *Id.*, §32.1.3. Subprograms 1 through 4 are collectively referred to as Medicare Premium Assistance programs.

The income limit for QMB is up to 100% of the federal poverty level. For SLMB the limit is from 100% to 119%, and for SLMB+ it is 120% to 134% of the federal poverty level. *MEH*, 32.2 – 32.5. Gross income is used in income testing. *MEH*, 15.1.5 & 32.1.1.

From November 2013 through January 2014, 120% FPL for one person was \$1,149.00, and 135% was \$1,292. From February through July, 2014, 120% is \$1,167.00, and 135% is \$1,312.88. *Id.*, 39.5. The petitioner's gross income is **\$1,281.90**. This gross income amount clearly puts the petitioner over the SLMB 120% limit (\$1,149, then \$1,167) throughout the November 2013 through July 2014 period. If the petitioner had qualified for SLMB, he could have received both SLMB and MAPP. However, he did not so qualify, due to income.

The petitioner's income was under the SLMB+ limit (\$1,292, then \$1,312.88) from November 2013 to the present. However, the agency declined to provide him with the SLMB+ form of Medicare Premium Assistance prior to May 2014 because the petitioner was receiving MAPP, which is a form of MA. To be eligible for SLMB+, a person cannot be receiving any form of MA. *Id.*, § 32.4.

The petitioner contends that he never wanted MAPP, so the Department should retroactively cancel the MAPP coverage that he has already received from November through April. However, the contemporaneously kept agency case notes from the February intake appointment declare that the petitioner was requesting MAPP. The petitioner did not object to the MAPP certification until he realized, via the March 13 notice, that he could not receive both MAPP and SLMB+. When he made his objection known on March 27, the agency timely ended his MAPP and began the SLMB+. Thus, the agency acted correctly here.

CONCLUSIONS OF LAW

1. The Department correctly determined that the petitioner was not eligible for SLMB Medicare Premium Assistance from November 2013 through the present, due to excess income.
2. The Department correctly determined that the petitioner was not eligible for SLMB+ from November 2013 through April 30, 2014, due to his MAPP certification in those months.

THEREFORE, it is

ORDERED

That the petition is 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 14th day of July, 2014

\sNancy J. Gagnon
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 July 14, 2014.

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