



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MQB/157577

PRELIMINARY RECITALS

Pursuant to a petition filed May 13, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Outagamie County Department of Human Services in regard to Medical Assistance, a hearing was held on June 04, 2014, at Appleton, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner was not eligible for Medicare Premium Assistance (QMB).

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

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

By: Evelyn DeFatte

Outagamie County Department of Human Services
401 S. Elm Street
Appleton, WI 54911-5985

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Outagamie County.
2. Respondent notified petitioner on February 14, 2014, that she did not qualify for Medicare Premium Assistance (QMB) due to assets in excess of program limits.

3. The respondent determined that petitioner's household possessed non-exempt assets with a value of approximately \$40,000.00.
4. The QMB asset limit for a household of two is \$10,750.00.

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-.5.

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 is \$10,750 for a household of two. MEH, § 32.6. Divestment of assets has no effect on QMB, SLMB, SLMB+, or QDWI eligibility. *Id.*

The county agency correctly denied the petitioner's request for QMB benefits because petitioner's assets substantially exceeded the program limit. The petitioner noted that her life insurance policy has been converted to a burial trust, and therefore would not count as an available asset. The respondent testified that this has been updated. Petitioner's husband also has an annuity valued at \$19,675.00, which she argues should not be included. The respondent counters that since petitioner's husband is self-employed, he can access these funds, and therefore they must be included. The petitioner also argues that she cannot afford her premiums, which are withdrawn three premiums at one time; the respondent testified that this is standard practice. The petitioner has not established any error on the part of the respondent. Accordingly, the county agency correctly denied the petitioner's request for QMB benefits due to assets exceeding QMB eligibility limits.

CONCLUSIONS OF LAW

The county agency correctly denied the petitioner's request for QMB benefits due to assets above the QMB 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 22nd day of July, 2014.

\sPeter McCombs
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 July 22, 2014.

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