



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MQB/157713

PRELIMINARY RECITALS

Pursuant to a petition filed May 14, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Shawano County Department of Social Services in regard to Medical Assistance, a telephonic hearing was held on July 08, 2014, at Shawano, Wisconsin.

The issue for determination is whether the county agency correctly determined that petitioner's March 11, 2014 re-application for SLMB benefits can not be backdated and approved prior to March 1, 2014 due to assets above the eligibility limit.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Sarah Bartz, ESS

Shawano County Department of Social Services
607 E. Elizabeth Street
Shawano, WI 54166-3105

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Shawano County.
2. The petitioner had received QMB in the past, but her QMB benefits were discontinued December 31, 2013, due to petitioner receiving a \$10,963 lump sum child support payment. Exhibit 2.

3. Petitioner re-applied for MA and QMB/SLMB benefits on March 11, 2014.
4. Based upon the petitioner's May 23, 2014 verification, the county agency determined that petitioner's lump sum child care payment was spent down to the \$7,160 SLMB asset eligibility limit by March 1, 2014. See Exhibit 2.
5. The county agency sent a June 2, 2014 notice to the petitioner stating that petitioner was approved for SLMB benefits as of March 1, 2014 because her net income of \$1,154.90 was below the SLMB income eligibility limit of \$1,167.00 and the asset eligibility limit. See Exhibit 1.
6. The county agency denied the petitioner's request for SLMB benefits prior to March 1, 2014 because the Medicaid Eligibility Handbook, sec. 32.7.2, limits SLMB benefits to the first of the month in which all eligibility requirements are met (including meeting the \$7,160 SLMB asset limit).
7. During the July 8, 2014 hearing, petitioner was unable to provide any reliable evidence that her lump sum child support payment was spent down to the \$7,160 asset limit prior to March 1, 2014.

### DISCUSSION

The Specified Low-Income Medicare Beneficiary (SLMB) benefit pays for Medicare Part B premiums. *Medicaid Eligibility Handbook (MEH)*, §32.1.3. A person is eligible for backdating of SLMB benefits to the first day of the third month prior to the month of application using the same backdating guidelines used for the regular Medicaid program provided that the applicant was *not* also eligible for qualified medical beneficiary (QMB) benefits during the backdate period. *MEH*, § 32.8.2. The individual could not have been QMB eligible, whether or not they applied, during the backdate period. *Id.*

Backdating guidelines for regular Medicaid are found in the *Medicaid Eligibility Handbook at §2.8.2*. Those guidelines indicate that backdating can be requested at any time and that the backdating can go back to the first day of the third month prior to the month of application provided all other eligibility requirements are met. **SLMB backdating also requires that all other SLMB eligibility criteria be met. *MEH*, §32.7.2.**

In this appeal, petitioner was seeking backdating of her SLMB benefits prior to March 1, 2014. The provisions of the *Medicaid Eligibility Handbook*, 32.7.2 permit that backdating so long as petitioner met all other SLMB eligibility criteria including the asset and income limit requirements. During the July 8, 2014 hearing, the county agency representative correctly argued that petitioner was unable to refute the county agency's case that petitioner's lump sum child support payment was not spent down to the asset limit of \$7,160 prior to March 1, 2014. As a result, the county agency correctly backdated the petitioner's March 11, 2014 MA and SLMB re-application only to March 1, 2014 and approved her SLMB as of that date.

### CONCLUSIONS OF LAW

1. The county agency correctly backdated the petitioner's March 11, 2014 SLMB re-application to March 1, 2014 and approved her SLMB as of that date when petitioner met all eligibility criteria.
2. The county agency correctly determined that petitioner's SLMB asset eligibility can not be backdated prior to March 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 August, 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 August 11, 2014.

Shawano County Department of Social Services  
Division of Health Care Access and Accountability