



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MQB/159390

PRELIMINARY RECITALS

Pursuant to a petition filed July 25, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA)/Medicare Premium Assistance, a hearing was held on September 17, 2014, by telephone. A hearing scheduled for August 20, 2014, was rescheduled at the petitioner’s request.

The issue for determination is whether the Department began the petitioner’s QMB/Medicare Premium Assistance benefit in the correct month.

There appeared at that time 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: Jose Silvestre, IM Spec.-Advanced
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. The petitioner contacted the local agency and requested Medicare Premium Assistance on May 23, 2014. The agency processed that request and found that the petitioner was eligible for

Medicare Premium Assistance as a subset of her general eligibility for Elderly/Blind/Disabled Medical Assistance (her income is below 100% of the federal poverty level). A Notice dated May 27, 2014, incorrectly advised that the petitioner's QMB would begin August 1, 2014. Prior to hearing, the Department corrected the case so that the Assistance began July 1, 2014.

DISCUSSION

Section 301 of the Medicare Catastrophic Coverage Act (MCCA) of 1988 established an eligibility category known as Qualified Medicare Beneficiary (QMB). A Qualified Medicare Beneficiary (QMB) is an individual with income below the poverty level whose Medicare premium benefits and coinsurance and deductibles are paid for by the state Medicaid (MA) program based upon the individual's poverty status (100% of the federal poverty level).

It is elementary that a person cannot receive QMB benefits unless s/he applies for them. The petitioner applied for QMB on May 23, 2014. She is asking for the QMB benefit retroactively to some unspecified month. However, retroactive certification is not possible for the months preceding the application:

...in the case of medicare cost-sharing with respect to a qualified medicare beneficiary defined in subsection (p)(1)...., benefits are not retroactive.

42 U.S.C. 1396d(a). See in accord, *Medicaid Eligibility Handbook*, §§ 32.2 & 32.7.1 (there is no corresponding state administrative code provision). Thus, the Department's decision to certify the petitioner for QMB effective June 1, 2014, was correct.

CONCLUSIONS OF LAW

The agency correctly began the petitioner's QMB certification on June 1, 2014, pursuant to her May 23, 2014, application.

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 18th day of September, 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 September 18, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability