



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MQB/160209

PRELIMINARY RECITALS

Pursuant to a petition filed August 25, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance, a telephone hearing was held on September 25, 2014.

The issue for determination is whether the agency correctly denied Petitioner's application for QMB.

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: Rhonda Kramer

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. Petitioner's household size is 2.
3. Petitioner's monthly gross income is \$2059.90 consisting of SSDI for Petitioner in the amount of \$1358.90 and SSDI for Petitioner's wife in the amount of \$701.

4. On August 5, 2014 Petitioner applied for QMB. On August 6, 2014 the county agency denied Petitioner's application because he was over the program income limit.
5. On August 27, 2014 the Division of Hearings and Appeals received Petitioner's request for fair hearing.

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.

Medicare charges premiums for its insurance. Wisconsin MA pays some or all Medicare premiums for the persons participating in the programs 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 (viewable online at www.emhandbooks.wi.gov/meh-ebd/). See also, Wis. Stat. §49.468.

The income limit is set below 100% of the federal poverty level for QMB, 100% to 119% for SLMB, 120% to 134% for SLMB+, and up to 200% for QDWI. *MEH*, 32.2.3 & 39.5. A person who is eligible and certified for QMB will have his/her Medicare Part A and B premiums paid by the Wisconsin Medical Assistance program. A SLMB or SLMB+ recipient will have only his Medicare Part B premiums paid by Wisconsin MA. A QDWI recipient will have only his/her Medicare Part A premiums paid by the state MA program.

The income limit for a household of two people is currently \$1,310.83 for QMB, \$1,573.00 for SLMB, and \$2,621.67 for QDWI. *Id.*, 39.5. SLMB+ financial eligibility determinations are performed manually by the county agency, when requested.

The starting point on treatment of income for Medical Assistance or the related Medicare premium assistance programs is always to include gross income that is actually and legally available to a recipient, unless there is a specific exclusion of that income in the MA rules. *MEH*, 15.1.5. The petitioner's Social Security Disability income was correctly counted here. Petitioner's household gross income from social security disability is \$2059.90. The county also budgeted the standard \$20 deduction giving Petitioner a monthly gross income of \$2,039.90. This is over the QMB and SLMB income limits. Because neither Petitioner nor his wife were employed, the QDWI limit was not applicable. Wis. Stat. §49.468(2).

Petitioner also appealed the denial of his application for Medical Assistance and his monthly FS allotment. Those issues are discussed in separate opinions.

CONCLUSIONS OF LAW

The agency correctly denied Petitioner's application for QMB benefits.

THEREFORE, it is

ORDERED

That the Petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 1st day of October, 2014

\sCorinne Balter
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 October 1, 2014.

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