



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MQB/162267

PRELIMINARY RECITALS

Pursuant to a petition filed October 25, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Kenosha County Human Service Department in regard to Medical Assistance, a hearing was held on December 17, 2014, at Kenosha, Wisconsin.

The issues for determination are whether Petitioner's appeal is timely as to an August 1, 2014 discontinuance of her Medicare Savings Plan (MSP) benefits and whether Petitioner's MSP-Qualified Medicare Beneficiary (QMB) eligibility may be backdated.

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: Karen Mayer

Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Kenosha County.
2. Petitioner contacted the agency on June 17, 2014 and reported that her method of payment for her Social Security benefits was changing from direct deposit to [redacted]. This was because her bank was closing.

3. On June 18, 2014 the agency sent Petitioner a written request for verification of the [REDACTED] account balance. It was due by June 27, 2014. That time limit was later extended to July 7, 2014 via a second written request for verification.
4. Petitioner did submit some financial records by July 10th and or 11th, 2014 but, because she did not submit verification relative to [REDACTED] by July 7, the agency discontinued her Qualified Medicaid Beneficiary (QMB) benefits effective August 1, 2014.
5. Petitioner was sent a Notice of Decision dated July 8, 2014 that informed her that her QMB benefit was being discontinued effective August 1, 2014 for failing to verify. That notice contained appeal instructions and noted in appeal deadline of September 16, 2014. It was sent to a prior address but case notes indicate that Petitioner's address changed on September 4, 2014 - after the issuance of the discontinuance notice.
6. Petitioner reapplied for QMB benefits on or about October 3, 2014. That application was approved and QMB benefits resumed for Petitioner as of November 1, 2014.
7. This appeal was filed on October 25, 2014.

DISCUSSION

Medicare is an insurance program and charges coinsurance, deductibles and monthly premiums. These out-of-pocket expenses of Medicare beneficiaries are generally referred to as 'Medicare cost-sharing.' For certain Wisconsin residents who receive Medicare, Wisconsin Medicaid pays some or all of their Medicare cost-sharing. These State Medicaid programs are called Medicare Savings Programs (MSP). *Medicaid Eligibility Handbook (MEH)*, §32.1.1.

In order for the Division of Hearings and Appeals to have authority to make a determination on the merits of a matter it must have authority to do so. It does not have authority where an appeal is untimely. A timely hearing request concerning Medical Assistance, that includes MSP matters, must be filed within 45 days of the notice of the county agency decision. §49.45(5)(a), *Wis. Stats.* Here it is apparent that the hearing was requested after the September 16, 2014 appeal filing deadline for the August 1, 2014 case closure. Thus the appeal is untimely and the Division of Hearings and Appeals without authority to act as to that issue. The appeal is timely as to the backdating denial based on the October 2014 reapplication for QMB.

QMB benefits pay Medicare Part A & B premiums and Medicare deductibles and coinsurance. Petitioner reapplied for the QMB in October 2014. The case opened as of November 2014. Per the *MEH*:

32.7.1.1 QMB Applications

For initial applications, QMB benefits begin on the first of the month after the month in which the individual is determined to be eligible/confirmed in CARES.

MEH, §32.7.1.1.

Thus, based upon the October reapplication, the agency correctly started Petitioner's QMB benefits on November 1, 2014.

I will note, however, that if Petitioner had timely appealed I would have found for her. All that she reported here was a different method of receiving her Social Security payments. See generally, <https://www.usdirectexpress.com/edcfdtclient/index.html#>. This was not something that had to be reported. It is not clear why the agency sought verification. Further, Petitioner was trying to provide the verification. There is nothing that prevents the agency from correcting this even though the Division of Hearings and Appeals no longer has jurisdiction.

CONCLUSIONS OF LAW

1. That this appeal as untimely with respect to the August 1, 2014 discontinuance of Petitioner's QMB benefits.
2. That QMB benefits begin in the month of application, thus with an October 2014 QMB application November is the correct start month.

THEREFORE, it is

ORDERED

That this appeal 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 Milwaukee,
Wisconsin, this 21st day of January, 2015

\sDavid D. Fleming
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 January 21, 2015.

Kenosha County Human Service Department
Division of Health Care Access and Accountability