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[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**

Case #: MQB - 212371

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on February 28, 2024, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Eau Claire County Department of Human Services regarding the discontinuance of the petitioner's Qualified Medicare Beneficiary status under Medical Assistance (MA), a hearing was held on March 20, 2024, by telephone.

The issue for determination is whether the county agency correctly discontinued the petitioner's eligibility for Qualified Medicare Beneficiary premium payment due to excess income.

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, WI 53703

By: Nicole Daul, Income Maintenance Worker  
Eau Claire County Department of Human Services  
721 Oxford Avenue  
PO Box 840  
Eau Claire, WI 54702-0840

**ADMINISTRATIVE LAW JUDGE:**

Kenneth D. Duren  
Division of Hearings and Appeals

## FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Polk County. He was a Qualified Medicare Beneficiary and FoodShare recipient in at least February 2024 as a 1-person household. He was not then-eligible for Medical Assistance as he had a then-current Medicaid spenddown deductible which he had not yet met. See, Exhibits #1, #2, #3, #8; and see, Case Comments dated February 2024; and CARES Worker Web Correspondence History Search Results, run on 2/29/2024.
2. On February 12, 2024, the county agency issued a Notice of Decision to the petitioner informing him that his case file had been alerted that he was receiving Unemployment Compensation benefits, and this income had been added to his eligibility budgets. The Notice further stated that he was ineligible for the Qualified Medicare Beneficiary premium payment under the Medicare Savings Program known as SLMB+ due to income in excess of program limits; and he was denied MA and FS benefits too for a similar reason. See, Exhibit #4.
3. On February 28, 2024, the petitioner filed an appeal with the Division of Hearings & Appeals contesting the discontinuance of Qualified Medicare Beneficiary eligibility (as well as the denial of Medical Assistance and discontinuance of FoodShare eligibility which are reviewed in companion cases FOO-212373 and MGE-212372.)
4. The petitioner's income on February 12, 2024, when the determination was made that he was not eligible for Medical Assistance – EBD benefits, was based upon his Social Security- OASDI benefits of \$1,347 per month, plus Unemployment Compensation benefits of \$1,116 per month, minus the \$20 income disregard for a net countable income of \$2,443 per month.
5. The countable net income limit for the highest income limit for Qualified Medicare Beneficiary premium payments, i.e., the Specified Low-Income Medicare Beneficiary+ limit for a one person household was \$1,694.25.
6. On March 7, 2024, the county agency reviewed his eligibility for MA and the Qualified Medicare Beneficiary status again, using only his Social Security income stream, apparently because Unemployment Compensation benefits would not be available in April 2024, and the agency re-tested QMB eligibility and found that his countable income was now \$1,347 per month prospectively, and that he would be eligible for SLMB+.

## 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, being an insurance program, charges premiums. Wisconsin *Medical Assistance* (MA) pays some or all Medicare premiums for eligible persons through the subprograms 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 ).

*Medicaid Eligibility Handbook*, App. 32.1.1. Subprograms 1 through 4 are collectively referred to as Medicare Premium Assistance programs.

The then-applicable income limit, in February 2024, for QMB was up to 100% of the federal poverty level. For SLMB the limit was from 100% to 119%, and for SLMB+ it was 120% to 134% of the federal poverty level. *MEH*, Apps. 32.2 – 32.5. And see, *MEH*, App. 39.5. You must be working and qualified disabled for QDWI, and neither is relevant here.

At the time of the budget testing, 100% of the federal poverty level for one person was \$1,255, 120% was \$1,506, 135% was \$1,694.25, and 200% was \$2,510. *Id.*, App. 39.5.

At the time the petitioner was tested on February 12, 2024, he was not eligible under any QMB income test above, due to net countable income of \$2,443.

Subsequently on March 7, 2024, the agency attempted to perform a post-appeal review of the petitioner's QMB eligibility and performed an analysis *only* counting the petitioner's Social Security income. The agency representative proffered no explanation for this omission of UC income. The problem with this is that the petitioner testified that he was still receiving Unemployment Compensation weekly benefits of \$279 and would do so for another 4-5 weeks.

The initial discontinuance determination of February 12, 2024, was correct. He was ineligible. The accuracy of the review re-determination of March 7, 2024, cannot be determined on this record to be correct. Rather, I will remand the re-determination of his QMB eligibility retroactive to March 7, 2024, to be done as it should have been performed counting all necessary available income, with notice. If the petitioner is again aggrieved by the re-determination result, he must file a new appeal at that time.

### **CONCLUSIONS OF LAW**

- 1) The county agency correctly discontinued the petitioner's Qualified Medicare Beneficiary benefits effective March 1, 2024, as determined in the Notice of February 12, 2024.
- 2) The record is insufficient to determine whether the agency correctly reviewed and re-determined the petitioner's QMB eligibility in the determination made in the Notice of March 7, 2024; the matter is remanded for review and re-determination using all required available income in the computation.

**THEREFORE, it is**

**ORDERED**

That the matter is remanded to the county agency with instructions to: review and re-determine the petitioner's eligibility for any Qualified Medicare Beneficiary premium benefits retroactive to a review date of March 7, 2024, using all actually available countable income, with written Notice. These actions shall be completed within 10 days of the date of this Decision. IT IS FURTHER ORDERED, that the petition for review as it concerned the discontinuance of MQB benefits to the petitioner (by Notice of February 12, 2024) and effective March 1, 2024, is dismissed in its entirety.

### **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, 4822 Madison Yards Way, 5<sup>th</sup> Floor North, 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, **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).

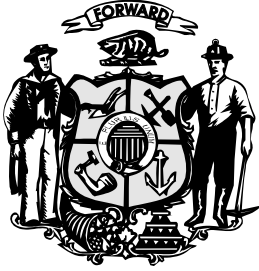
The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 22nd day of March, 2024



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Kenneth D. Duren  
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 March 22, 2024.

Eau Claire County Department of Human Services  
Division of Health Care Access and Accountability