



FH  
[REDACTED]

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

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: MQB - 207807

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed on February 27, 2023, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Marathon County Department of Social Services regarding Medical Assistance (MA), a hearing was held on June 1, 2023, by telephone.

The issue for determination is whether the respondent correctly denied petitioner's request to commence her QMB eligibility effective November 1, 2022.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

**Petitioner:**

[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner's Representative:**

Attorney Christine J. Huberty  
GWAAR -- Elder Law & Advocacy Center  
1414 MacArthur Rd Suite 306  
Madison, WI 53714

**Respondent:**

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

By: Gao Shou Lor

Marathon County Department of Social Services  
400 E. Thomas Street  
Wausau, WI 54403

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Marathon County.

2. Petitioner applied for medical assistance, FoodShare and Qualified Medicare Beneficiary (QMB) Program enrollment on September 28, 2022.
3. Although a Medicare Savings Benefit request was entered by the agency upon her application, it was not tested because petitioner was not entitled to Medicare Part A or B at that time.
4. On October 2, 2022, petitioner requested a receipt from the Social Security Administration (SSA) office regarding her Medicare Part A eligibility.
5. On January 12, 2023, the agency received a phone call from the SSA office regarding the Medicare Savings Benefit request made by petitioner in September of 2022. The caller from Social Security informed the agency that petitioner became entitled to Medicare Part B as of October 1, 2022.
6. Since the petitioner did not have Medicare Part A, the agency called the Social Security worker back on January 18, 2023 to request that they assist petitioner in applying for Part A and to submit the receipt to show the Part A begin date to allow the agency to test her Medicare Savings Benefit eligibility.
7. The agency also sent a verification check list to the petitioner on January 12, 2023 requesting the receipt identifying her Part A entitlement date.
8. The agency received a letter from SSA on January 24, 2023. The agency accepted this as receipt of Part A enrollment and approved QMB as of February 1, 2023.
9. The Medicaid Eligibility Handbook provides that, for initial eligibility, QMB benefits begin on the first of the month after the month in which the person is determined to be eligible, and the case is confirmed in CARES.
10. SSA failed to properly provide petitioner with her receipt in October of 2022, and conceded that its error led to the issue on appeal.

### DISCUSSION

Petitioner filed this appeal because the agency denied her request to commence her QMB eligibility as of November 1, 2022. QMB, SLMB, and SLMB Plus are programs that provide assistance with Medicare premiums for persons whose incomes are over the regular Medical Assistance limits. See Wis. Stat., §49.468. All three programs pay the entire Part B premium, but QMB also pays for Medicare deductibles, copayments, and coinsurance. See the MA Handbook, §32.1.1 for a full description of the programs and §32.1.3 for the benefits each pays.

QMB can begin on the first of the month after the month the person is determined to be eligible. MA Handbook, §32.7.1.1. The SSA conceded that it erred in processing petitioner's information, and this resulted in the respondent's erroneous commencement of petitioner's QMB enrollment in February of 2023. The agency based its determination of petitioner's enrollment date on the SSA's belated submission of her Medicare Part A enrollment receipt in January of 2023. The agency concluded that, based upon the SSA submission, petitioner was eligible for QMB in January, 2023, making her eligible the first of the next month.

The situation here is unusual, however there are few facts in dispute. Petitioner applied for benefits in September of 2022, and while it is true that initially her Medicare eligibility did not show, she did become eligible effective October 1, 2022. The agency should have received receipt of that eligibility determination in October of 2022, which would have allowed for QMB enrollment as of November 1, 2023.

QMB can be backdated if the eligibility process was not completed within 30 days, the certification process was not completed, or by a fair hearing order. MA Handbook, §32.8.1. I thus can order backdating here. I will order that petitioner's QMB enrollment commence effective November 1, 2022, as the delay in commencing her enrollment was caused by the SSA office, and was not due to any error or omission on the part of petitioner.

### CONCLUSIONS OF LAW

Petitioner's QMB should be backdated to November 1, 2019 because the delay in her QMB enrollment was caused by the SSA office, and was not due to any error or omission on the part of petitioner.

**THEREFORE, it is**

**ORDERED**

That the matter be remanded to the agency with instructions to grant QMB eligibility for the months of November, 2022 – January 2023. The agency shall do so within 10 days following issuance of this decision.

### **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**

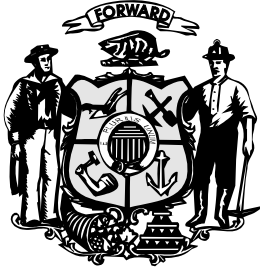
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 7th day of July, 2023

A handwritten signature in blue ink, appearing to read 'Peter McCombs', written over a horizontal line.

\s \_\_\_\_\_  
Peter McCombs  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin \DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
5<sup>th</sup> Floor North  
4822 Madison Yards Way  
Madison, WI 53705-5400

Telephone: (608) 266-7709  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 7, 2023.

Marathon County Department of Social Services  
Division of Health Care Access and Accountability  
Attorney Christine Huberty