



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MSC - 215557

PRELIMINARY RECITALS

Pursuant to a petition filed on October 19, 2024, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Medicaid Services regarding Medical Assistance (MA), a hearing was held on January 7, 2025, by telephone.

The issue for determination is whether the petitioner is responsible for an additional deductible after already having met his \$850 deductible on SeniorCare.

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: Pungnou Her
Division of Medicaid Services
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Kate J. Schilling
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County who has been on the SeniorCare program for years.

2. On May 24, 2024, the petitioner submitted a renewal for SeniorCare (■■■). He listed his anticipated income for the year to be \$28,640 in Social Security benefits and \$2,965 in interest, dividends, and capital gains.
3. On June 10, 2024, the agency mailed out a notice to the petitioner indicating that he had been approved for ■■■ for a period of 6/1/24 through 5/31/25 as Level 2b with a \$850 deductible.
4. The petitioner met his \$850 deductible in August 2024.
5. On September 4, 2024, the petitioner contacted ■■■ to report that he had overestimated his income for interest, dividends, and capital gains. Instead of \$2,965, it should be \$1,213 for the year.
6. The agency representative who took the petitioner's call established this as an income-change which generated a new, additional \$500 deductible.
7. The petitioner received conflicting information as to whether he would need to pay the additional \$500 deductible, even after speaking with multiple people at the agency.
8. A supervisor with the agency sent out a notice on November 13, 2024, notifying the petitioner that he is not required to pay the \$500 deductible as he had already met the \$850 deductible for the same annual benefit period.

DISCUSSION

SeniorCare is a Wisconsin program providing prescription drug assistance for residents ages 65 and over. It is implemented under the Wisconsin Administrative Code, Chapter DHS 109, the Medicaid Eligibility Handbook (MA Handbook) § 33.1, and Wis. Stats. § 49.688.

Effective with benefit periods starting September 1, 2003, there are four participation levels for SeniorCare. The level of benefits an applicant receives depends on their annual income and, for some, on the amount they spend on covered prescription drugs during their 12-month benefit period.

Level	Income Limit	Benefit & Out of Pocket Costs
Level 1	160% FPL	No deductible Thereafter \$5 for generic drugs, \$15 for brand names
Level 2a	200% FPL	\$500 deductible Thereafter \$5 for generic drugs, \$15 for brand names
Level 2b	240% FPL	\$850 deductible Thereafter \$5 for generic drugs, \$15 for brand names
Level 3	> 240% FPL	\$850 deductible & spenddown Thereafter \$5 for generic drugs, \$15 for brand names

MA Handbook § 33.11.1.

On May 24, 2024, the petitioner completed his ■■■ renewal. He listed his anticipated income for the year to be \$28,640 in Social Security benefits and \$2,965 in interest, dividends, and capital gains. It was processed by the agency on June 7, 2024. On June 10, 2024, a notice was sent out to the petitioner that his ■■■ renewal was approved and that based on his income, he qualified as a Level 2b member, and would have a deductible of \$850.

On September 24, 2024, the petitioner realized that he had incorrectly estimated his income based on his assets not earning as much interest income as he had previously expected. The ■ rules indicate that a person has 45 days to correct their income after submitting a renewal. *MA Handbook* §33.10.2.2.

If the error resulted in an underpayment and he or she reported the error within 45 days of the mail date of the notice of decision, corrected benefits should be restored back to the initial eligibility date of the benefit period. **If the error is not reported within 45 days of the notice of decision mail date, the effective date of the correction is the first of the month in which the error is reported.**

(Emphasis added.) *MA Handbook* §33.10.2.2. The 45 day time period here ended on July 8, 2024; therefore, the correction could only be made going forward. When the agency staff person made the adjustment in the computer in September, it generated a new, additional \$500 deductible period for the petitioner. However, the petitioner in this case had already met his \$850 deductible in August 2024; therefore, the imposition of a \$500 deductible in September incorrectly gave the petitioner a \$1,350 deductible.

Generally, a person on SeniorCare can re-establish a new benefit period at any time during the year by submitting a new application and paying the \$30 fee again. However, it is typically only beneficial to do this if a person has a reduction in annual gross income. *MA Handbook* § 33.11. The petitioner in this case did have a reduction in his gross annual income; however, he had already met his \$850 deductible for the year by the time this was reported to the agency. Given this fact, and that it was beyond the 45 days for retroactive correction of the error, there was essentially no benefit to be realized from reporting the change in income mid-year. (If a person had not yet met their deductible and/or spenddown, the result would be different.)

What inadvertently occurred here was the imposition of an *additional* \$500 deductible, beyond the \$850 deductible the petitioner had already incurred, after he reported the reduction in his income to the agency in September. The petitioner was also given conflicting information by various staff, which led him to file the request for the hearing. Ultimately, prior to the date of the hearing, an agency supervisor reviewed the case and corrected the petitioner's ■ benefit eligibility profile to reflect that he was only responsible for the one deductible of \$850, and that it had already been met for the benefit period ending May 31, 2025. A notice of decision sent out to the petitioner on November 13, 2024 reflects this correction, as did the agency's testimony at the hearing.

CONCLUSIONS OF LAW

1. The petitioner is not responsible to pay an additional \$500 deductible for the benefit period June 1, 2024, through May 31, 2025, after already having met a \$850 deductible in August 2024.
2. The agency had rescinded the assessment of the second deductible prior to the date of the hearing, thereby fully correcting the issue.

THEREFORE, it is

ORDERED

That the petitioner's appeal is moot as the agency had remedied the issue and removed the \$500 deductible prior to the date of the hearing.

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, 5th 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.

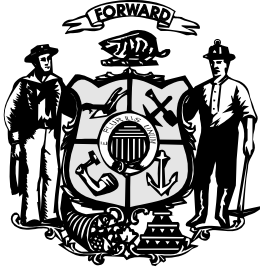
APPEAL TO COURT

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 24th day of February, 2025

\s _____
Kate J. Schilling
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 February 24, 2025.

Division of Medicaid Services
Senior Care