



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

SSP/170274

PRELIMINARY RECITALS

Pursuant to a petition filed November 23, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to State Supplemental SSI benefits, a hearing was held on January 06, 2016, at Madison, Wisconsin.

The issue for determination is whether the respondent correctly terminated petitioner's SSI benefits.

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: [Redacted]

Division of Health Care Access and Accountability
Madison, WI

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Dane County. She was receiving SSI State Supplement benefits through November 30, 2015, while also receiving federal Social Security Supplemental Security Income (SSI) benefits.
2. On November 18, 2015, the respondent issued a Notice to the petitioner informing her that her SSI State Supplement benefits would end because she was no longer receiving federal SSI benefits.

3. The petitioner filed an appeal with the Division of Hearings & Appeals on November 23, 2015, contesting the Department’s discontinuance of her SSI State Supplement benefit.
4. The petitioner’s eligibility for federal SSI benefits ended effective November 30, 2015.

DISCUSSION

Effective January 1, 1996, the State of Wisconsin began sending out its SSI State Supplement payments separately from federal Supplemental Security Income (SSI) payments (they had previously been sent out as one check by the Social Security Administration). Petitioner was eligible for SSI State Supplement because she received a federal SSI payment. The statute reads, with the basis for petitioner's eligibility italicized, as follows:

- 49.77 State supplemental payments.
- ...
- (2) ELIGIBILITY. (a) The following persons who meet the resource limitations and the nonfinancial eligibility requirements of the federal supplemental security income program under 42 USC 1381 to 1383d are entitled to receive supplemental payments under this section:
- ...
2. *Any needy person or couple residing in this state and receiving benefits under federal Title XVI.*
 3. Any needy person or couple residing in this state whose income, after deducting income excludable under federal Title XVI, is less than the combined benefit level available under federal Title XVI and this section, if at least one of the following requirements are met:
 - a. The person or couple was eligible for a state supplement under this section based on the last federal eligibility determination prior to January 1, 1996, but was not eligible to receive a payment under federal Title XVI on that date.
 4. Any essential person.

Wis. Stat. § 49.77(2). Petitioner received SSI State Supplement benefits because she was receiving federal SSI (Title XVI). Because her federal SSI has been terminated (a fact that a state hearing examiner cannot change), she cannot qualify for SSI State Supplement pursuant to § 49.177(2)(a)2 above. Therefore I must conclude that she is not eligible for the SSI State Supplement cash benefit until and if she again receives federal SSI payments.

In addition, petitioner received MA because she received SSI. Wis. Stat., §49.46(a)(1)4. When SSI ended so too did the MA eligibility.

Petitioner should pursue her appeal to the Social Security Administration to determine if she can become eligible for federal SSI again. If she again becomes eligible for federal SSI, then she would be eligible for the SSI State Supplement. She cannot receive the state benefit under the present status with the federal agency.

CONCLUSIONS OF LAW

That the Department correctly discontinued the petitioner’s SSI State Supplement benefit because she is no longer receiving federal SSI cash benefits.

NOW, THEREFORE, it is ORDERED

That the petition for review herein be, and the same hereby 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 Madison,
Wisconsin, this 15th day of March, 2016

\sPeter McCombs
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 March 15, 2016.

Division of Health Care Access and Accountability
State SSI