



**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Waukesha County.
2. On March 24, 2016, the agency issued a Notice of State SSI and/or Caretaker Supplement Overpayment to the Petitioner informing him that the agency intends to recover an overissuance of state SSI benefits in the amount of \$921.58 for the months of October – December, 2014 and March – October, 2015. The notice informed the Petitioner that the overissuance was due to the federal Social Security Administration (SSA) determination that the Petitioner had non-excludable resources exceeding program limits during those months, making him ineligible for SSA benefits.
3. Subsequent to the notice of overissuance, the SSA reversed its decision and determined the Petitioner was eligible for the months of December, 2014 and March – August, 2015. As a result, the state SSI overpayment was revised to \$335.12 for the months of October and November, 2014 and September and October, 2015.
4. On April 7, 2016, the Petitioner filed an appeal with the Division of Hearings and Appeals.

**DISCUSSION**

A person can only receive SSI State Supplement benefits if he also receives federal Supplemental Security Income (SSI) cash benefits in a given month. See, Wis. Stat. § 49.77(2)(a)2. See also, 20 C.F.R. § 416.2025(b)(4).

The petitioner was determined by the Social Security Administration to be in a federal SSI non-payment/non-eligible status due to non-excludable resources in excess of federal SSI program limits. The federal agency informed the Department, and the Department acted to recover all State SSI payments made to the petitioner in the period of time in which he was also ineligible for federal SSI payments.

The Petitioner's representative worked with SSA representatives to try to resolve the issue which involved the time of the month at which the Petitioner's resources were being counted. As a result of the negotiations, the Petitioner's representative reported that he concedes that the Petitioner was over the resource limit for the months of October and November, 2014 and September and October, 2015. He has worked to resolve the issue from re-occurring in the future.

Based on the information presented, I conclude that there is no longer an issue for determination as the parties both concede there was an overissuance in the amount of \$335.12 for the months of October and November, 2014 and September and October, 2015.

**CONCLUSIONS OF LAW**

There is no issue remaining for determination.

**THEREFORE, it is**

**ORDERED**

That the Petitioner's 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, **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 20th day of September, 2016

\s \_\_\_\_\_  
Debra Bursinger  
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 September 20, 2016.

Division of Health Care Access and Accountability  
State SSI