



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]

DECISION

SSO/143848

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 14, 2012, 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 Medical Assistance, a hearing was held on October 11, 2012, at Madison, Wisconsin.

The issue for determination is whether respondent erred in establishing an overpayment of State SSI payments.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703

Written Appearance by: Melissa Sherry  
Division of Health Care Access And Accountability  
Madison, WI

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Dane County.
2. The petitioner received \$167.56 in State SSI payments between February through March, 2012.
3. The Social Security Administration determined that the petitioner was ineligible for SSI from February through March 2012, because his unearned income exceeded applicable program limits.

4. The State SSI program seeks to recover the \$167.56 in payments the petitioner received from February through March, 2012.

### **DISCUSSION**

Wisconsin law allows the Department of Health and Family Services to recover any incorrectly paid benefits within a year of when the incorrect payment was discovered. It does not matter whose fault caused the incorrect payment. Wis. Admin. Code, § DHS 2.04(1)(a). Overpayments are collected from state SSI or caretaker supplement payments at a rate of 10% of the total overpayment each month. Wis. Admin. Code § DHS 2.04(3). "Incorrectly paid benefits" means that the recipient was not eligible for the benefits during the period they were paid. Wis. Admin. Code § DHS 2.03(5). The petitioner was eligible for state SSI benefits only if he met the requirements of the federal program found in 42 USC 1381 through 1383d. Wis. Stat. § 49.77(2).

The State SSI Unit seeks to recover the \$167.56 in payments the petitioner received from February through March, 2012, because it contends that his unearned income exceeded applicable program limits. He disputes this assertion, and has appealed the federal Social Security Administration decision; a decision on that appeal is pending. While I understand his position, because the federal program determined that he was not eligible for this benefit from February through March 2012, he also was not eligible of the state benefit. Therefore, I must uphold the agency's decision. Nothing in this decision should be construed as an admission by petitioner that he owes this debt.

### **CONCLUSIONS OF LAW**

The State SSI Unit has established that the petitioner was overpaid State SSI benefits from February through March 2012, because the federal program determined that his unearned income exceeded applicable program limits.

**NOW, THEREFORE, it is** **ORDERED**

The petitioner's appeal is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,  
Wisconsin, this 28th day of December, 2012

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\sPeter McCombs  
Administrative Law Judge  
Division of Hearings and Appeals



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

David H. Schwarz  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
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 December 28, 2012.

Division of Health Care Access And Accountability  
State SSI