



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of



DECISION

MSI/144545

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 11, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Wisconsin Department of Health Services – State SSI Unit, in regards to the discontinuance of Medical Assistance and/or State Supplement SSI benefits, a telephone hearing was held on February 28, 2013, at Madison, Wisconsin. A hearing set for January 7, 2013, was rescheduled at the petitioner's request. A prior hearing date was scheduled for November 21, 2012, and the petitioner did not appear. His appeal was subsequently dismissed as abandoned; he requested a rehearing; and the rehearing was granted by ORDER dated December 12, 2012. At the request of the petitioner, the record was held open for 10 days for the administrative law judge to contact the Department's SSI Unit for confirmation of his status in the SSI Unit.

The issue for determination is whether the Department, by its agents, correctly discontinued the petitioner's Medical Assistance and/or State Supplement SSI benefits because he is no longer a federal SSI cash benefits recipient.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703  
By: No Appearance

**ADMINISTRATIVE LAW JUDGE:**

Kenneth D. Duren, Assistant Administrator  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Outagamie County. He was a federal SSI recipient in at least September, 2012, and as a result he was also receiving Medical Assistance and/or State Supplement SSI benefits from the Department as a federal SSI cash benefits recipient.

2. On or about October 10, 2012, the Department apparently notified the petitioner that his Medical Assistance and/or State Supplement SSI benefits (petitioner was not clear on the latter point) would be discontinued effective October 31, 2012, because it had determined that he is not a citizen or otherwise eligible alien for either benefit based upon the federal SSI determination that he is not.
3. On October 11, 2012, by postmark date, the petitioner filed an appeal with the Division of Hearings contesting the Department's action to discontinue his MA and State Supplement SSI benefits.
4. The record was held open for 10 days at the petitioner's request for the administrative law judge to contact the Department's State SSI Unit and confirm the discontinuance data; on March 5, 2013, the judge did so and was informed by the State SSI Unit that the petitioner's MA and/or State Supplement SSI benefit, if any previously existed, had been discontinued because he is coded as a matter of federal SSI benefits records as "N -13" status, meaning that he is not a citizen or eligible alien and his federal SSI benefits had been discontinued by determination effective October 1, 2012.
5. As of October 1, 2012, the petitioner is no longer a cash recipient of federal SSI benefits.

### **DISCUSSION**

With certain exceptions not applicable here, a person must be receiving federal SSI in order to receive State Supplement SSI payments and SSI-related Medicaid. Wis. Stat. § 49.77. The Social Security Administration (SSA) notified the State of Wisconsin that the petitioner is no longer receiving federal SSI cash benefits because he has been determined "N -13", i.e., not an eligible citizen or alien, effective October 1, 2012. Therefore, petitioner is not currently eligible for State Supplement SSI payments and/or SSI-related Medicaid, and the Department was correct to discontinue those benefits to the petitioner.

It should be noted that petitioner was instructed to contact the federal Social Security Administration to correct any misinformation regarding the basis for his federal SSI discontinuance. He must go to the federal agency to establish that he is a citizen or eligible alien.

He has not been eligible for state SSI-related Medicaid or State Supplement SSI benefits since November 1, 2012, as a consequence of the federal SSI discontinuance. If, at some future date, his federal SSI cash benefits are restored, then the State will restore the state-issued benefits for the period in which he is found eligible by the Social Security Administration. Under the facts in this record, his appeal must be dismissed.

The petitioner may desire to contact the local county human services agency to make inquiry about his potential for eligibility for Medical Assistance as a disabled person or under the MA Core Plan, but he is likely to encounter difficulties as a consequence of the citizenship/alienage question as well. Nonetheless, he may attempt the application. I certainly do not possess enough facts in this record to rule out other categories of Medical Assistance eligibility.

### **CONCLUSIONS OF LAW**

That the petitioner is not eligible for a State Supplement SSI payment and/or SSI-related Medical Assistance, effective November 1, 2012, as he was no longer receiving a federal SSI payment since October 1, 2012.

**NOW, THEREFORE, it is**  
That petitioner's appeal is dismissed.

**ORDERED**

## **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 5th day of March, 2013

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\sKenneth D. Duren, Assistant Administrator  
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 March 5, 2013.

Division of Health Care Access And Accountability  
State SSI