



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

██████████  
██████████  
██████████

DECISION

SSP/145125

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 7, 2012, under Wis. Admin. Code, §HA 3.03, to review a decision by the Division of Health Care Access And Accountability (DHCAA) to discontinue State Supplemental SSI benefits, a hearing was held on March 21, 2013, by telephone. Hearings set for January 3, January 24, and February 19, 2013 were rescheduled at the petitioner's request.

The issue for determination is whether petitioner can receive the state SSI supplement after federal SSI ended.

PARTIES IN INTEREST:

Petitioner:

██████████  
██████████  
██████████

Petitioner's Representative:

Atty. Bruce J. Meagher  
P.O. Box 335  
Iola, WI 54945

Respondent:

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

By: Written submission of Melissa Sherry

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Waupaca County.
2. Petitioner received the state SSI supplement along with federal SSI. Effective November 1, 2012, federal SSI ended because petitioner became eligible for federal Disabled Adult Child benefits.
3. By a notice dated August 22, 2012, the DHCAA informed petitioner that state SSI would end November 1, 2012 because she no longer was eligible for federal SSI.

**DISCUSSION**

Effective January 1, 1996, the State of Wisconsin began sending out its state supplemental SSI payments separately from federal SSI payments (they had previously been sent out as one check by the Social Security Administration). Petitioner was eligible for state supplemental SSI 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), emphasis added. Petitioner received state supplemental SSI because she was receiving federal SSI (Title XVI). Because her federal SSI has been terminated (a fact that a state administrative law judge cannot change), she cannot qualify for state supplemental SSI pursuant to §49.177(2)(a)2 above. She also does not qualify under any of the other provisions listed, and I am unaware of any other exception that might allow her to continue to receive the state SSI. Therefore I must conclude that she is not eligible for the state supplemental SSI.

**CONCLUSIONS OF LAW**

Petitioner is ineligible for state SSI because she no longer receives federal SSI.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and the same is hereby 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 25th day of March, 2013

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\sBrian C. Schneider  
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 25, 2013.

Division of Health Care Access And Accountability  
State SSI  
[bruce@brucemeagherlaw.com](mailto:bruce@brucemeagherlaw.com)