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[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]

DECISION ON REHEARING

CTS/145664

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 03, 2012, under Wis. Stat. §227.42, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on January 24, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly terminated petitioner's CTS benefits effective January 1, 2013.

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

By: Sharon Thacker  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Kelly Cochrane  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner's household of 6 has a gross and net monthly income of \$1080.
3. On December 6, 2012 the agency issued a notice of decision to petitioner stating that effective January 1, 2013 her CTS benefit would end because she was over the income limit.

## DISCUSSION

With the end of the Aid to Families with Dependent Children (AFDC) program in Wisconsin on January 1, 1998, the state developed a new cash benefit program for SSI-recipient parents to help them support their eligible children: the SSI Caretaker Supplement for Children (CTS). See Wis. Stat. §49.775; *BWI Operations Memo*, 97-124 (11-20-97). To qualify for CTS, a child must, among other things, have an SSI recipient parent and be eligible for the now defunct AFDC program (which is synonymous with qualifying for “Medical Assistance – Regular”). See Wis. Stat. §49.775(2)(c); *BWI Operations Memo*, 99-29, p.2 (3-30-99); see also the *SSI Caretaker Supplement (CTS) Handbook*, available online at <http://www.emhandbooks.wisconsin.gov/cts/cts.htm>. To be eligible for CTS, the recipient must pass the tests for both AFDC nonfinancial and financial eligibility. The question presented in this case is whether or not the petitioner passes the AFDC financial/income test.

The CTS Handbook provides the following:

After determining non-financial eligibility for CTS, the financial situation of the household is considered. When determining initial or ongoing financial eligibility for CTS, both income and assets are counted. Income and assets of any members of the assistance group who receive SSI are disregarded.

...

Income of adults and children is counted prospectively when determining eligibility for CTS. Both earned income from work and unearned income, such as Social Security benefits, are counted.

*CTS Handbook*, §§3.2 and 3.2.1.

In calculating income eligibility, Social Security benefits are counted and treated as “unearned income.” *CTS Handbook*, §3.2.1. Thus, the children’s income must be counted in the filing unit’s income. Each of the six children received Social Security in the amount of \$180 monthly, which brings that household income to \$1080, which was undisputed at hearing. Petitioner’s income was disregarded appropriately as a recipient of SSI.

After the income amount is determined, financial eligibility is tested against a gross income test and a net income test:

Each group applying for CTS must pass two income tests.

The Gross Income Test compares the gross income to the gross income limit ( [5.2 Income Tables](#)). This test looks at gross deemed, earned and unearned income, including that of minors. Any CTS assistance group that passes this test may proceed to the final income test, the Net Income Test.

The Net Income Test compares the income that remains after certain deductions to the Net Income Limit, or Assistance Standard (5.2 Income Tables). Deductions from gross income that are allowed in this test include:

1. \$90 work related expense for each employed/ self employed individual
2. Dependent care deduction of \$200 per month for each child under the age of 2 and \$175 per month for each incapacitated adult and each child age 2 or older
3. Disregard of \$30 or 1/3 of earned income (when applicable)
4. Child support paid to someone outside of the assistance group

The Net Income Test includes the income of all minors, regardless of their school status or number of hours of employment, at application for CTS. For employed minors who have received CTS in one of the previous four months, use the following to determine how to count earned income:

1. Do not count the employment income of full-time students, regardless of the number of hours worked per week.
2. Do not count the employment income of part-time students working less than 30 hours per week.
3. Count the employment income, but apply \$90 and \$30 and 1/3 disregards, of any part-time student working 30 hours or more per week.
4. Count the employment income, but apply \$90 and \$30 and 1/3 disregards, of any minor that is not in school.

*Id.*, §3.2.1.2. The agency compared the children’s income against the gross income limit of \$1773 (Area I), and they passed. See *Id.* at §5.2.1. None of the above mentioned deductions in the net income calculation apply to this case. Therefore, when the children’s income was compared to the net income test for 6 persons in Milwaukee County, their combined income of \$1080 exceeded that amount, which is currently \$958. *Id.*, §5.2.4. Thus, I must find that the agency acted correctly in terminating the CTS benefit.

Petitioner did not dispute these findings but rather was confused about the notice’s language about child support. The agency explained that this was related to her FS case and agreed that any issues about that matter could be handled outside of this hearing. Having no evidence to find otherwise, I must uphold the agency’s action here. I add, assuming petitioner finds this decision unfair, that it is the long-standing position of the Division of Hearings & Appeals that the Division’s hearing examiners lack the authority to render a decision on equitable arguments. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions.

**CONCLUSIONS OF LAW**

The agency correctly terminated petitioner’s CTS benefits effective January 1, 2013 due to being over the income limit.

**THEREFORE, it is**

**ORDERED**

The petition for review herein is dismissed.

**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 Milwaukee,  
Wisconsin, this 31st day of January, 2013

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\sKelly Cochrane  
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 January 31, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability