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

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In the Matter of

██████ ██████  
████████████████████  
████████████████████

DECISION

SSO/145738

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 04, 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 ["DCHAA"] in regard to Medical Assistance [MA"], a Hearing was held via telephone on April 16, 2013. At petitioner's request the record of the April 16<sup>th</sup> Hearing was held open until May 1, 2013. At petitioner's request Hearings scheduled for March 12, 2013 and February 12, 2013 were rescheduled. With petitioner's agreement an additional 30 days were added to the Decision due date.

The issue for determination is whether petitioner must repay State Supplemental Security Income ["SSI"] in the total amount of \$837.80 for the time period September 2011 through June 2012.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

██████ ██████  
████████████████████  
████████████████████

Respondent:

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

By: Melissa Sherry, State SSI Analyst (Ms. Sherry did not appear at the April 16, 2013 Hearing but submitted a letter dated December 10, 2012 with attachments.)

Division of Health Care Access and Accountability  
State Supplemental Security Income Unit  
P.O. Box 6680  
Madison, Wisconsin 53716-0680

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is now a resident of Milwaukee County, Wisconsin.
2. Petitioner was notified by DHCAA that she was overpaid State SSI in the total amount of \$837.80 for the time period September 2011 through June 2012; the reason for the overpayment is that petitioner was not eligible for State SSI during that time period because she did not reside in Wisconsin (she resided in Indiana).
3. During the time period September 2011 through June 2012 petitioner resided in the State of Indiana (not the State of Wisconsin).

**DISCUSSION**

State SSI benefits incorrectly paid to individuals must be recovered. Wis. Admin. Code § DHS 2.04(1)(a) (December 2008). *Incorrectly paid benefits* means benefits paid for an individual not eligible for any benefits during the period for which the payment was made or paid an amount in excess of the amount that the individual was eligible to receive. Wis. Admin. Code § DHS 2.03(5) (December 2008).

In order to be eligible for State SSI in Wisconsin a person must reside in Wisconsin. See, Wis. Stat. § 49.77(2)(a) (2011-12). The evidence in the record of this matter is that petitioner did not reside in Wisconsin during the time period in question. Therefore, the overpayment must be upheld.

At the April 16<sup>th</sup> Hearing petitioner testified that she did live in Indiana but moved to Wisconsin in 2012. However, she was not certain of the date of the move (she “thinks “ “it was around February”). The record of the April 16<sup>th</sup> Hearing was held open to allow petitioner an opportunity to submit evidence to show the date of her move. Nothing was ever received from petitioner.

The state can waive State SSI overpayments in certain circumstances -- but only if recovery of the overpayment is considered to be against equity or when it causes undue hardship, or the recovery impedes efficient and effective administration of programs due to the small amount involved or the age of the account. Wis. Admin. Code § DHS 2.05 (December 2008). The evidence in the record of this matter does not demonstrate that any of these circumstances exist.

**CONCLUSIONS OF LAW**

For the reasons discussed above, petitioner must repay State SSI in the total amount of \$837.80 for the time period September 2011 through June 2012.

**NOW, 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 7th day of June, 2013

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\sSean P. Maloney  
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 June 7, 2013.

Division of Health Care Access And Accountability  
State SSI