



STATE OF WISCONSIN  
Division of Hearings and Appeals

---

In the Matter of

[REDACTED]

DECISION

CTS/145987

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed December 14, 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 February 14, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner is not eligible for Caretaker Supplement benefits for January and February, 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:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Prior to January 1, 2013, the Petitioner received Social Security survivor benefits of \$643/month for his three minor children (\$214/month for each child).

3. In December, 2012, the Social Security Administration (SSA) auto-populated the Petitioner's children's benefits into the agency's system for January 1, 2013. According to the information auto-populated by the SSA, the survivor benefits increased to \$651/month (\$217/month for each child) effective January 1, 2013.
4. On December 3, 2012, the agency issued a Notice of Decision to the Petitioner informing him that his Caretaker Supplement benefits would end on January 1, 2013 due to income over the program income limit.
5. On December 14, 2012, the Petitioner filed an appeal with the Division of Hearings and Appeals.
6. On February 14, 2013, the SSA issued letters to the Petitioner informing him that he would receive \$177.80/month for each of the three children effective December 1, 2012.
7. On February 14, 2013, the agency contacted the SSA by phone and was told that the children received \$214 each for December, 2012 and \$217 each for January and February, 2013. SSA also told the agency that each child would receive \$177.80/month effective March 1, 2013.

### DISCUSSION

Wisconsin's Caretaker Supplement (CTS) is a cash benefit available to parents who are eligible for Supplemental Security Income (SSI) payments.

In determining eligibility for CTS, unearned income of adults and children is counted prospectively. CTS Handbook § 3.2.1. There are two income tests which must be passed in order to be eligible for CTS. The Gross Income Test compares the gross income to the gross income limit. This test looks at earned and unearned gross income of adults and children. Any CTS group that passes this test may proceed to the Net Income Test. CTS Handbook § 3.2.1.2.

The Net Income Test compares the income that remains after certain deductions to the Net Income Limit. Deductions from gross income that are allowed include work related expenses for each employed individual; a dependent care deduction of \$200/month for each child under the age of 2; an earned income disregard of \$30; and child support paid to someone outside of the assistance group. The Net Income Test includes the income of all minors.

For a household size of three, the gross income limit is \$1,197 and the net income limit is \$647.

In this case, the Petitioner disputes the agency's calculation of unearned income from SSA. The SSA auto-populated \$217 for each child for January, 2013 into the agency system. This put the Petitioner's income at \$651 which resulted in the Petitioner being \$4 over the net income limit for CTS.

The Petitioner presented letters from the SSA indicating that each of the children receive \$177.80/month effective December 1, 2012. In an attempt to clarify the SS benefits the children received, the agency contacted the SSA on February 14, 2013. At that time, the SSA informed the agency that the children each received \$217 for the months of January and February, 2013 but that they would receive \$177.80/month beginning March 1, 2013. The agency also ran the SSA detail which continues to show the children were issued \$217 each for January and February.

The information from the SSA is contradictory and attempts by the agency and the Petitioner to clarify have not been successful. However, the greater weight of the evidence that I have at this time is that the children received \$217 each in January and February, 2013. If the Petitioner can provide a bank statement or other information that conclusively demonstrates that the children did not receive \$217 each in Social Security benefits in January and February, I will re-issue this decision. However, at this time, I

must conclude that the agency properly determined the Petitioner is over the net income limit for January and February, 2013 for CTS benefits.

I also note that the Petitioner disputes the agency policy with regard to CTS benefits. He correctly notes that although the SS benefits increased, the income limits for CTS did not change. It was explained to the Petitioner at the hearing that the agency and DHA do not have authority to change the policy and he should consider contacting his legislators about that issue.

**Again, if the Petitioner can provide additional information to show that the amount of SS survivor benefits that his children actually received in January or February was not \$217 each (i.e. a bank statement or other receipt), I will re-consider this decision. However, the Petitioner must provide that information within 20 days of the date of this decision (see instructions below for requesting a rehearing).**

**CONCLUSIONS OF LAW**

The agency properly determined that the Petitioner was over the income limit for CTS benefits in January and February, 2013.

**THEREFORE, it is ORDERED**

That the petition be, and hereby 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 Milwaukee,  
Wisconsin, this 22nd day of February, 2013

---

\sDebra Bursinger  
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 February 22, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability