



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

SSO/150585

PRELIMINARY RECITALS

Pursuant to a petition filed July 09, 2013, 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 in regard to Medical Assistance, a telephone hearing was held on September 03, 2013. This matter was rescheduled on 4 separate occasions, as petitioner attempted to assist the respondent in resolving this matter in accordance with the federal resolution of the same matter.

No issue remains for determination.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner's Representative:

Attorney Patrick Seubert
618 S Green Bay Road
Neenah, WI 54956-3109

Respondent:

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

Written Appearance by: Melissa Sherry
Division of Health Care Access And Accountability
Madison, WI

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Winnebago County.

2. Petitioner received state Supplemental Security Income (SSI) cash benefits until the respondent was informed that petitioner had been placed in a non-payment status code of N04 (member's non-excludable resources exceed Title XVI limitations) effective July, 2012.
3. On June 20, 2013, petitioner was notified that the respondent had established an overpayment of benefits to the petitioner in the amount of \$670.24 during the time period of August, 2012 through March, 2013.
4. On July 3, 2013, petitioner notified the respondent in writing of the Social Security Administrations' decision to waive its determined overpayment.
5. On July 17, 2013, the respondent notified the Division of Hearings and Appeals that it had granted the petitioner's request of a waiver of the overpayment of SSI benefits and that the recoupment had been nullified by the respondent.

DISCUSSION

On July 17, 2013, the respondent wrote:

We are writing to inform you we received information from the member as well as obtained additional information from the Social Security Administration (SSA) requesting waiver of this overpayment, based on the factor that the time period in question was waived by SSA. This waiver of the overpayment of SSI benefits for August 2012 through March 2013 is being granted. Therefore, the recoupment has been nullified ...

Exhibit 2.

CONCLUSIONS OF LAW

The respondent has granted the waiver of the overpayment of SSI benefits.

THEREFORE, it is

ORDERED

That this matter be remanded to the respondent to nullify the recoupment of the overpayment established on June 20, 2013. Said nullification shall be completed within 10 days following issuance of this decision.

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 2nd day of October, 2013

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Wayne J. Wiedenhoft, Acting Administrator
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5005 University Avenue
Madison, WI 53705-5400

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Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 2, 2013.

Division of Health Care Access And Accountability
State SSI
pseubert@seubertlaw.com