



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

In the Matter of

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

DECISION

SSP/150971

PRELIMINARY RECITALS

Pursuant to a petition filed July 24, 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 State Supplemental SSI benefits, a hearing was held on August 21, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Department erred in terminating state supplement payments.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Melissa Sherry (in writing)

Division of Health Care Access And Accountability
Department of Health Services
1 West Wilson St.
Madison, WI 53716-8680

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. Petitioner had been receiving federal SSI benefits payments.

- 3. Petitioner has received state supplemental security income.
- 4. Petitioner is incarcerated. Federal SSI payments have terminated.

DISCUSSION

In order to receive the SSI State Supplement, most persons must also be eligible to receive federal SSI through the Social Security Administration (SSA). Some states issue supplemental payments to SSI recipients living within their states, while others choose not to do so. Wisconsin is a state that has chosen to issue a monthly supplemental payment to Wisconsin residents who receive federal SSI. However, a condition of receiving this payment is that the person must be eligible to receive federal SSI (Title XVI):

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.*
- ...

(emphasis added)

Wis. Stat. §49.77(2)2.

The federal SSI payments terminated as a result of petitioner’s incarceration. Petitioner’s representative argued that petitioner is still paying for an apartment so needs the income. The rules, however, do not allow for this. With the end of the federal payment so must the state payment end.

CONCLUSIONS OF LAW

The Department did not err in termination the state supplement payments as the federal SSI payment have ended.

THEREFORE, it is ORDERED

That this appeal 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 Madison,
Wisconsin, this 1st day of October, 2013

\sJohn P. Tedesco
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 October 1, 2013.

Division of Health Care Access And Accountability
State SSI