



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

██████████ ██████████
██
██

DECISION

SSP/153157

PRELIMINARY RECITALS

Pursuant to a petition filed October 28, 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 (Division or DHCAA) in regard to State Supplemental SSI benefits, a hearing was held on November 20, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Department correctly sought to discontinue the petitioner's State Supplemental SSI payments effective October 31, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

Interpreter: ██████████ ██████████

██████████ ██████████
██
██

Respondent:

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

By: No appearance

Division of Health Care Access And Accountability
Madison, WI

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. Prior to October 31, 2013, the petitioner received State Supplemental SSI payments. The Department notified the petitioner on October 18, 2013, that her State Supplemental SSI benefits would be discontinued effective October 31, 2013. Exhibit 1. The petitioner appealed.

3. Prior to November 1, 2013, the federal Social Security Administration (SSA) notified the petitioner that her federal SSI payments would be discontinued effective October 31, 2013.
4. The petitioner began receipt of federal and state SSI in 2005.

DISCUSSION

Effective January 1, 1996, the State of Wisconsin began sending out its State Supplemental SSI payments separately from federal SSI payments (they had previously been sent out as one check by the Social Security Administration). The state statute that lists the eligibility criteria for State Supplemental SSI payments reads as follows:

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.*

3. Any needy person or couple residing in this state whose income, after deducting income excludable under federal Title XVI, is less than the combined benefit level available under federal Title XVI and this section, if at least one of the following requirements are met:

a. The person or couple was eligible for a state supplement under this section based on the last federal eligibility determination prior to January 1, 1996, but was not eligible to receive a payment under federal Title XVI on that date.

4. Any essential person.

(emphasis added)

Wis. Stat. § 49.77(2). The State sought discontinuance of the State Supplemental benefit because it believed that petitioner did not meet the financial (asset) eligibility requirements of the federal SSI (*i.e.*, Title XVI) program as of October 31, 2013, based on information provided by the SSA.

If the petitioner is financially eligible for federal SSI, she is financially eligible for State Supplemental SSI. Because she did not establish at hearing that she is currently eligible for federal SSI, it follows that she is not currently eligible for State Supplemental SSI. The petitioner offered only her testimony that she is currently not receiving SSI. Accordingly, I conclude that the state benefit discontinuance was correct. If the petitioner's assets fall under the SSI asset limit in the future, she should re-apply for federal benefits with the Social Security Administration.

CONCLUSIONS OF LAW

1. The Department correctly discontinued the petitioner's State Supplemental SSI payments effective October 31, 2013, because the petitioner was not eligible for federal SSI at that time.

THEREFORE, it is

ORDERED

That the petition 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 21st day of November, 2013

\sNancy J. Gagnon
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 November 21, 2013.

Division of Health Care Access And Accountability
State SSI