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

In the Matter of

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

REHEARING
DECISION

SSP/153725

PRELIMINARY RECITALS

Pursuant to a petition filed November 25, 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 (DHCAA) in regard to State Supplemental SSI benefits, a telephonic rehearing was held on March 17, 2014, at Portage, Wisconsin. The petitioner failed to appear for his February 10, 2014 hearing and thus his appeal was dismissed as abandoned. The petitioner requested a rehearing and that rehearing was granted for good cause.

The issue for determination is whether the Department correctly discontinued the petitioner's State Supplemental SSI payments effective December 1, 2013 because he was no longer eligible for federal SSI as of November 1, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

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

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Melissa Sherry, State SSI analyst
State SSI Unit
Division of Health Care Access and Accountability
P.O. Box 6680
Madison, WI 53716-0680

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Columbia County who has been incarcerated in the Sauk County Jail since at least November 1, 2013 and continuing to this March 17, 2014 hearing date.
2. The Department sent a November 18, 2013 notice to the petitioner that his State SSI would discontinue effective December 1, 2013, due to his Federal SSI ending as of November 1, 2013.
3. State SSI analyst, Melissa Sherry, sent a letter notice to the petitioner stating that his State Supplemental SSI benefits (State SSI) would discontinue effective December 1, 2013, due to Social Security placing the petitioner in a non-payment status code of N22 (claimant is an inmate of a correctional institution) as of November 1, 2013. See Exhibit 1.

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 ... 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.

Wis. Stat. § 49.77(2). The State sought discontinuance of the State Supplemental benefit because petitioner did not meet the nonfinancial eligibility requirements of the federal SSI (*i.e.*, Title XVI) program as of November 1, 2011, because he was an inmate of a correctional institution (Sauk County Jail) based on information provided by the SSA.

If the petitioner is financially and non-financially eligible for federal SSI, he is also financially and non-financially eligible for State Supplemental SSI. Because petitioner did not establish with any documentation at hearing that he was non-financially eligible for federal SSI as of November 1, 2011, the Department correctly discontinued the petitioner’s State Supplemental SSI payments as of December 1, 2013 because petitioner was no longer eligible for federal SSI as of November 1, 2013.

CONCLUSIONS OF LAW

The Department correctly discontinued the petitioner's State Supplemental SSI payments effective December 1, 2013 because he was no longer eligible for federal SSI.

THEREFORE, it is ORDERED

The petition for review herein be and the same is hereby Dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 18th day of March, 2014

\sGary M. Wolkstein
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 March 18, 2014.

Division of Health Care Access and Accountability
State SSI