



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

CTS/154648

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 07, 2014, under Wis. Stat. § 227.42, to review a decision by the Waukesha County Health and Human Services in regard to Medical Assistance, a hearing was held on February 13, 2014, at Waukesha, Wisconsin.

The issue for determination is whether the petitioner is eligible for a backdate of Caretaker Supplement (CTS) from 2003-2013.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Kathleen Jones and Bonnie Laub  
Waukesha County Health and Human Services  
514 Riverview Avenue  
Waukesha, WI 53188

**ADMINISTRATIVE LAW JUDGE:**

Kelly Cochrane  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Waukesha County.
2. Petitioner applied for and began receiving CTS in December 2013.

3. Petitioner previously received CTS in 2003. Her case closed in 2003 due to her income being over the CTS income limit. Petitioner reapplied for CTS in 2004 but her case was not opened because she did not provide the necessary verifications for the program.

### DISCUSSION

The Caretaker Supplement/CTS is a cash benefit program. Wisconsin's Caretaker Supplement was authorized by 1997 Act 27, which created Wis. Stat. §49.775. This original statutory language enabled and funded the program and specified the program's basic eligibility requirements. It also included language that specified that the intent of the program was to provide cash benefits to SSI parents who would have met the eligibility requirements for benefits that were in place on July 16, 1996 under Aid to Families with Dependent Children (AFDC), a program eliminated by the federal government in 1997. A CTS-eligible parent is a recipient of SSI who has met all financial and non-financial requirements for CTS. See *CTS Handbook* §§1.1 and 3.1.3, available online at <http://www.emhandbooks.wisconsin.gov/cts/cts.htm>.

As stated above, petitioner was a CTS recipient in 2003. She is seeking CTS backdating from December 2013-February 2003. The CTS policy for backdating is as follows:

In limited circumstances, local agency workers may use CARES to determine eligibility and electronically interface CTS benefits for previous time periods.

The most common instance of backdating occurs when, even after a grace month, the parent has not complied with review requirements and the CTS assistance in a CARES case has closed. The worker may reopen the CTS assistance in this case if the parent requests CTS and complies with requirements within the first month the CTS assistance is closed in CARES.

Another common instance of backdating occurs when a parent with an open CARES case is unexpectedly awarded SSI eligibility to a month earlier than the present month. In this case, the local agency worker may adjust dates in CARES to allow the initial CTS eligibility begin with the first month of SSI eligibility (assuming all CTS criteria were also met by the assistance group). However, backdating to the SSI start date is allowed only when the assistance group has been an open assistance case in CARES for the entire period of backdating. In this case the month of "application for assistance" is considered to be the application date of the most recent continuously open case in CARES.

Under not [sic] circumstances may CTS benefits be paid for a month during which the assistance group was not an open case in the CARES system.

*CTS Handbook* §4.2.

Under the first instance of a backdating possibility, petitioner would have had to not comply with review requirements for CTS and the CTS assistance closed. She would have then had to comply with CTS requirements within the first month the CTS assistance was closed in CARES. There is no evidence this occurred. There is no evidence that her CTS ended because of failing to comply with review requirements or that she met those requirements within the first month of closure. Thus, she did not meet the first limited backdating option.

The second backdating option involves a situation where someone is unexpectedly awarded SSI eligibility to a month earlier than the present month. There is no unexpected SSI award situation here. Thus, she fails to meet the second backdating option.

Further, I cannot go back to the closures from 2003 or 2004 as petitioner did not timely appeal those terminations. A hearing officer can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by a county agency concerning CTS must be filed within 45 days of the date of the action. Sections 49.45(5) and 49.21(1), Wis. Stats.; Income Maintenance Manual, II-G-3.4.0. A negative action can be the denial of an application or the reduction or termination of an ongoing case. The petitioner's appeal which is the subject of this decision was filed approximately 10 years after the CTS closures. Thus, the current appeal is untimely, and no jurisdiction exists for considering the merits of those cases.

Accordingly, I find no basis to award backdating of CTS here.

I add, assuming petitioner finds this decision unfair, that it is the long-standing position of the Division of Hearings & Appeals that the Division's hearing examiners lack the authority to render a decision on equitable arguments. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions.

### **CONCLUSIONS OF LAW**

The petitioner is not eligible for a backdate of CTS for the period of 2013-2003.

**THEREFORE, it is**

**ORDERED**

That the petition for review be 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, Room 651, 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 17th day of April, 2014

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\sKelly Cochrane  
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 April 17, 2014.

Waukesha County Health and Human Services  
Division of Health Care Access and Accountability