



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CTS/155664

PRELIMINARY RECITALS

Pursuant to a petition filed February 24, 2014, under Wis. Stat. § 227.42, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on March 19, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the Department erred in its termination of the State Caretaker Supplement for November and December 2012.

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: Pang Thao-Xiong
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. The Department had denied CTS for November and December 2012 based on its understanding that SSI had not been granted for those months.
3. Petitioner appealed.

DISCUSSION

Beginning January 1, 1998, with the advent of the Wisconsin Works (W-2) program, Aid to Families with Dependent Children (AFDC) ceased to exist in this state. Since W-2 is a work program, and SSI recipients by definition are unable to work, SSI recipients cannot qualify for W-2. The state thus implemented the Caretaker Supplement Program, which currently pays Supplemental Security Income (SSI) recipient parents \$250 per month for one child, and \$150 per month for additional children. The program is mandated by Wis. Stat., §49.775.

To be eligible for the CTS payments the following criteria must be met: **(1)** the caretaker must be an SSI recipient, or if both parents are in the home, both parents must receive SSI; **(2)** the child or children must meet the financial and non-financial criteria for AFDC as it existed on July 16, 1996; and **(3)** the child or children must not receive SSI payments themselves. Wis. Stat., §49.775(2).

Under AFDC rules, a child must be included with a parent in the benefit household. 45 C.F.R. §233.90(c)(1)(v); CTS Handbook, §3.1.2. The income of a person in the household must be considered available to all household members. 45 C.F.R. §233.20(a)(3)(ii)(a); Handbook, §3.2.1. SSI recipients and their income are not counted in the household. Handbook, §3.1.2. Importantly for this case, a parent cannot exclude a person simply because that person might negatively affect eligibility. Id.

The Department database indicated that petitioner had not received federal SSI during November and December 2012. It therefore would not pay the CTS. At hearing, petitioner argued that she had been found eligible for SSI and received it. The state representative confirmed this and issued the retroactive CTS following the hearing. See ex. #3. The matter is therefore resolved and there is no longer any issue for determination.

CONCLUSIONS OF LAW

The Department has now issued the CTS sought by petitioner.

THEREFORE, it is **ORDERED**

The matter is 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 5th day of May, 2014

\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 May 5, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability