



FH
[REDACTED]

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

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CTS/156663

PRELIMINARY RECITALS

Pursuant to a petition filed April 4, 2014, under Wis. Stat. § 227.42, to review a decision by the Green Lake County Department of Human Services ["County"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on September 3, 2014. At petitioner's request Hearings scheduled for August 4, 2014, June 17, 2014, and May 8, 2014 were rescheduled. The Hearing for this matter was held at the same time for the Hearings for the following 2 closely related matters concerning the same petitioner: FOO-156662; and, FOP-156664.

The issue for determination is whether petitioner is eligible for the Caretaker Supplement program ["CTS"] for her 2 sons.

There appeared at that time via telephone 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: Shelby Jensen, ES Unit Manager
Green Lake County Department of Human Services
Human Services Ctr
571 County Road A
Green Lake, WI 54941

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Green Lake County, Wisconsin.
2. Petitioner has 2 minor sons (AGJ & ASJ).
3. By a Circuit Court Order dated October 2, 2006 it was ordered that AGJ's father have sole physical placement of AGJ. *Order*, Case No. [REDACTED] (Wis. Cir. Ct. Green Lake County October 2, 2006).
4. By a Circuit Court Order dated October 2, 2006 it was ordered that ASJ's father have sole physical placement of ASJ. *Order*, Case No. [REDACTED] (Wis. Cir. Ct. Green Lake County October 2, 2006).
5. A document filed in Green Lake County Circuit Court on December 17, 2012 pursuant to a Circuit Court Order, signed by both petitioner and the father of her sons, shows that petitioner has visitation with her sons on certain days (1 or 2 days per week) but that her sons do not live with her.
6. Petitioner's 2 sons live with their father, not with petitioner (although petitioner does visit with her sons and have some periods of placement).

DISCUSSION

A parent is eligible for a CTS benefit for a child only if, among other things, the parent resides with the child. Wis. Stat. §§ 49.141(1)(b) & (c); and, 49.775(1)(a) & (b) and (2)intro. (2011-12); *SSI Caretaker Supplement (CTS) Handbook* ["CTS Handbook"], 3.1.9.¹

In this case, petitioner is not eligible for CTS for her 2 sons because she does not reside with them. This is because, although petitioner does have visitation with her sons, her sons do not live with her. This is based on the court documents, one of which is signed by both petitioner and the father of her sons, detailed in the above *Findings of Fact*.

Petitioner testified that she has her sons "a lot", that she attends middle school orientation, science fairs, baseball, and that she buys school supplies. She testified that she has her sons 17 days out of the month and that they live with her ½ the time. This is not credible in light of the court documents that are part of the record of this matter. Petitioner offered no explanation for the inconsistency between her testimony and the court documents, even when asked.

CONCLUSIONS OF LAW

For the reasons discussed above, petitioner is not eligible for CTS for her 2 sons.

¹ In addition, a custodial parent is eligible for a CTS benefit only if, among other things, the custodial parent is a recipient of Supplement Security Income ["SSI"] or a recipient of State SSI (or both). Wis. Stat. § 49.775(2)(a) (2011-12); CTS Handbook, 3.1.4. If a dependent child has 2 custodial parents each custodial parent must get SSI or State SSI (or both). Wis. Stat. § 49.775(2)(b) (2011-12); CTS Handbook, 3.1.2. & 3.1.9. Eligibility for Social Security Disability Insurance ["SSDI"] does not qualify a parent as a CTS parent. CTS Handbook 3.14.

ORDERED

That 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.

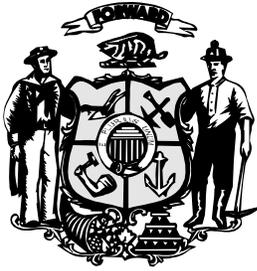
APPEAL TO COURT

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 5th day of September, 2014

\sSean P. Maloney
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 September 5, 2014.

Green Lake County Department of Human Services
Division of Health Care Access and Accountability