



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

SSO/157459

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 07, 2014, 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 in regard to Medical Assistance, a hearing was held on May 29, 2014, at Kenosha, Wisconsin.

The issue for determination is whether the Department of Health Services (DHS) correctly determined that the Petitioner was overpaid State Supplemental Security (SSI) benefits for the period of August 2008 through October 2008.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Petitioner's Representative:

[REDACTED]  
[REDACTED]  
Madison, WI 53715

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703  
By: No one

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Kenosha County.
2. On April 24, 2014, DHS sent the Petitioner a Notice of State SSI and/or Caretaker Supplement Overpayment, indicating that he erroneously received benefits from August 2008 through January 2009, because the Social Security Administration decided he was not entitled to Federal benefits. (Exhibit 1)

3. Attorney Delany, on behalf of Petitioner, filed a request for fair hearing that was received by the Division of Hearings and Appeals on May 7, 2014. (Exhibit 1)
4. On May 8, 2014, the Social Security Administration sent the Petitioner a letter indicating that, "As part of the Clark Court Order you were due SSI payments of 637.00 for 8/08-9/08..." (Exhibit 2, pg. 3)
5. On May 20, 2014, the Social Security Administration sent the Petitioner a letter indicating that, "SSA records reflect that [Petitioner] was eligible for and paid Federal SSI benefits for the months of 10/2008, 11/2008 and 12/2008. The amount paid for that time period was \$637.00 a month." (Exhibit 2, pg. 4)

### **DISCUSSION**

The purpose of State Supplemental Security Income is to provide a cash supplement to all Wisconsin residents who receive federal SSI. *SSI Administration Handbook §1.1.1*. Thus, in order to receive State SSI benefits, a person must first qualify for and receive Federal SSI benefits. *SSI Administration Handbook §2.1.1*. The only people exempt from this rule are those individuals who, since prior to 1995, have been receiving only State SSI benefits. *Id.*

If SSI / Caretaker Supplement benefits have been incorrectly paid under Wis. Stats. Chapters 48 or 49, the agency, "may seek recovery from the eligible individual ...The total amount recovered may not exceed the amount of incorrectly paid benefits, and shall be offset by any amounts that are owed the eligible individual..." Wis. Admin. Code §DHS 2.04 (1)(a)

The Petitioner did not dispute the fact that he was overpaid SSI benefits for January 2009. However, he disagrees with DHS's contention that he was also overpaid benefits between August 2008 and December 2008.

The correspondence from the Social Security Administration makes clear that the Petitioner was entitled to receive and did receive Federal SSI benefits from August 2008 through December 2008. As such, he correctly received State SSI benefits and no overpayment occurred during those months.

### **CONCLUSIONS OF LAW**

1. DHS correctly determined that Petitioner was overpaid SSI benefits in January 2009.
2. DHS did NOT correctly determine that Petitioner was overpaid SSI benefits from August 2008 through December 2008.

**THEREFORE, it is**

### **ORDERED**

That DHS amend the April 24, 2014 Notice of State SSI and/or Caretaker Supplement Overpayment, to reflect an overpayment for January 2009 only. DHS shall take all administrative steps to complete this task within ten days of this decision.

### **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 12th day of August, 2014.

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\sMayumi M. Ishii  
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 August 12, 2014.

Division of Health Care Access and Accountability  
State SSI  
Attorney Mary Delaney