



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CTS/157711

PRELIMINARY RECITALS

Pursuant to a petition filed May 15, 2014, under Wis. Stat. § 227.42, to review a decision by the Wood County Human Services - WI Rapids in regard to Medical Assistance, a hearing was held on June 12, 2014, at Medford, Wisconsin.

The issue for determination is whether the petitioner must repay caretaker supplement payments she received while the father of one of her children lived with her but did not receive SSI.

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: Beulah Garcia

Wood County Human Services - WI Rapids
320 West Grand Avenue
PO Box 8095
Wisconsin Rapids, WI 54495-8095

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Taylor County.
2. The petitioner has lived with the father of her youngest child since before that child was born in January 2013. They both are custodial parents of that child.

3. The father of the petitioner’s child does not receive SSI.
4. The petitioner has received \$2,400 in Caretaker Supplement Payments on behalf of her youngest daughter since that child was born. The county agency seeks to recover those payments.

DISCUSSION

On January 1, 1998, Wisconsin Works (W-2) ended AFDC in Wisconsin. W-2 is a work program, but Supplemental Security Income (SSI) recipients by definition are unable to work, so SSI recipients cannot qualify for W-2. To aid those on SSI with the financial burden of raising children, the state, acting under Wis. Stat. § 49.775, implemented the Caretaker Supplement program. It pays \$250 per month for one child and \$150 per month for each additional child to parents who receive SSI. Wis. Stat. § 49.775(3)(a). The Caretaker payments are included in the SSI State Supplement payments made to eligible recipients. Eligibility for Caretaker payments depends upon meeting the following criteria: (1) the caretaker must be an SSI recipient; (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. If the child has two custodial parents, both must receive SSI. Wis. Stat. § 49.775(2). A custodial parent is a parent who resides with and has legal custody of a child. Wis. Stat. § 49.775(1)(a), citing § 49.141(1)(b).

The petitioner has lived with the father of her youngest child since that child’s birth in January 2013. Since then, she has received \$2,400 in Caretaker Supplement payments on behalf of the child. She contends that she and the child’s father pay all of their bills separately and thus, in essence, have formed two separate households. The petitioner and the father of her child can handle their finances in any legal manner they see fit, but this does not change that as far as the Caretaker Supplement program is concerned, they make up a single household. This is because both reside with and have legal custody of their child, which makes them both custodial parents. Because they are both custodial parents, neither can receive the supplement unless both receive SSI. The father does not, which made the petitioner ineligible for the program. She must repay the \$2,400 she has received from it.

CONCLUSIONS OF LAW

1. The county agency correctly determined that the petitioner is ineligible for SSI because the father of her child lives with her and that child and is a custodial parent of that child.
2. The petitioner must repay the \$2,400 she has received from the Caretaker Supplement program on behalf of her youngest child.

THEREFORE, it is

ORDERED

The petitioner's appeal 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 7th day of July, 2014

\sMichael D. O'Brien
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 July 7, 2014.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability