



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

SSP/157763

PRELIMINARY RECITALS

Pursuant to a petition filed June 09, 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 State Supplemental SSI benefits, a hearing was held on July 15, 2014, at West Bend, Wisconsin.

The issue for determination is whether the Petitioner's appeal is timely and, if so, whether the agency properly discontinued the Petitioner's State SSI and Medicaid.

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: Melissa Sherry

Division of Health Care Access and Accountability

Madison, WI

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger

Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of [REDACTED] County.
2. The Petitioner was placed in a non-payment status by the Social Security Administration (SSA) effective January, 2014.

3. On March 19, 2014, the agency issued a notice to the Petitioner that his State SSI would end on March 30, 2014 and Medicaid may end April 30, 2014. The notice also informed him of the right to a hearing by filing an appeal within 45 days of the date his benefits end.
4. On May 20, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

A hearing officer can only rule on the merits of a case if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by an agency concerning State SSI or MA must be filed within 45 days of the date of the action. Wis. Stats., § 49.45(5). The Petitioner's appeal was filed 50 days after the date State SSI benefits ended. Thus, with regard to State SSI benefits, the appeal is untimely and no jurisdiction exists for considering the merits of the case.

A person can only receive SSI State Supplement benefits if she also receives federal Supplemental Security Income (SSI) cash benefits in a given month. See, Wis. Stat. § 49.77(2)(a)2. See also, 20 C.F.R. § 416.2025(b)(4).

The Petitioner was determined by the Social Security Administration to be in a federal SSI non-payment/non-eligible status, i.e., "NO1" which means that he was ineligible due to income in excess of federal SSI program limits. The federal agency informed the Department, and the Department acted to discontinue the petitioner's SSI State Supplement.

At the hearing, the Petitioner's daughter testified that his SSA payments had been restored. This was not the information I had from the state agency. However, I note that if the Petitioner again begins to receive the federal SSI cash benefit, the Department will again be informed and the SSI State Supplement and Medicaid would then be restored.

Based on the information presented, I conclude that the Petitioner's appeal of the State SSI is untimely. With regard to Medicaid, I conclude the agency's actions are correct.

CONCLUSIONS OF LAW

With regard to the State SSI, the Petitioner's appeal is untimely. With regard to discontinuance of the State Medicaid, the agency's actions are correct.

THEREFORE, it is

ORDERED

That the Petitioner's appeal is 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 31st day of July, 2014

\sDebra Bursinger
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 31, 2014.

Division of Health Care Access and Accountability
State SSI