



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

CTS/160630

PRELIMINARY RECITALS

Pursuant to a petition filed September 15, 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 October 09, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly denied Petitioner’s application for caretaker supplement benefits effective April 1, 2014 when Petitioner was disabled for a closed period from May 1, 2011 through February 28, 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Jose Silvestre  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter  
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. On March 19, 2014 Petitioner received State SSI payments for a closed period from May 1, 2011 through February 28, 2014. The State paid Petitioner of total of \$3,853.88 for those months.

Petitioner also received a lump sum payment from SSA for SSI payments during this closed period of disability.

3. The Social Security Administration determined that Petitioner was not disabled after February 2014. Petitioner did not receive SSI from effective March 1, 2014.
4. On April 3, 2014 the agency sent Petitioner a notice stating that Petitioner's April 2, 2014 application for the caretaker supplement was denied because a parent in the home had to be receiving SSI. Petitioner was not receiving SSI effective March 1, 2014.

### **DISCUSSION**

Beginning January 1, 1998, with the advent of the Wisconsin Works (W-2) program, 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 SSI recipient parents \$250 per month for one child, and \$150 per month for additional children. The program is mandated by Wis. Stats., §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. Stats., §49.775(2). The Department has an *SSI Caretaker Supplement Handbook* which outlines the eligibility requirements for program participation. (online at <http://www.emhandbooks.wisconsin.gov/cts/cts.htm>) last viewed October 2014.

In this case it is clear that Petitioner received both a State and Federal lump sum SSI payment for a closed period of disability from May 1, 2011 through February 28, 2014. It appears that after Petitioner received these lump sum payments he applied for the caretaker supplement on April 2, 2014. At the hearing the agency stated that they never received an application for the caretaker supplement benefit, however, the notice dated April 3, 2014 states that the agency received Petitioner's application on April 2, 2014. There was a denial of that application, which triggered this appeal. I am unclear if there was ever an earlier application for caretaker supplement benefit.

Although it is clear that Petitioner would meet the SSI requirement for caretaker supplement benefits between May 1, 2011 and February 28, 2014, it is unclear if Petitioner meets the other non-financial requirements for that time period. Specifically, the child must also meet the financial and non-financial criteria for AFDC as it existed on July 16, 1996, and the child or children must not receive SSI payments themselves. It is unclear to me if Petitioner meets those requirements.

I further note that I reviewed the policy for backdating of the caretaker supplement benefit. This policy allows for backdating to the SSI start date when the assistance group has been an open assistance case in CARES for the entire period of backdating. *Caretaker Supplement Handbook*, § 4.2 (online at <http://www.emhandbooks.wisconsin.gov/cts/cts.htm>) last viewed October 2014. The agency summary states that Petitioner did continuously have an open case. The agency provided no further details to determine whether or not Petitioner is able to satisfy this requirement.

### **CONCLUSIONS OF LAW**

Petitioner received lump sum State and Federal SSI payments for a closed period of disability between May 1, 2011 and February 28, 2014. Effective March 1, 2014 Petitioner is not disabled. The agency correctly denied Petitioner's application for caretaker supplement effective April 1, 2014. The agency has not concluded whether or not Petitioner is eligible for his closed period of disability from May 1, 2011 through February 28, 2014 or any portion of that period.

**THEREFORE, it is**

**ORDERED**

That this case is remanded back to the Department of Health Services, and it's agents to determine whether Petitioner is eligible for caretaker supplement effective May 1, 2011 through February 28, 2014 or any portion of that period. The agency shall comply with this order 10 days from the date 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 21st day of October, 2014

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\sCorinne Balter  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 21, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability