



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

CTS/162775

PRELIMINARY RECITALS

Pursuant to a petition filed December 16, 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 January 20, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether petitioner failed to cooperate with the Child Support Agency, thus affecting her Caretaker Supplement eligibility.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

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

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

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # Redact) is a resident of Milwaukee County. She receives Supplemental Security Income (SSI) payments.
2. Petitioner had been receiving Caretaker Supplement payments for her child.
3. On September 8, 2014 the Child Support Agency (CSA) notified the Economic Support Agency (ESA) that petitioner was not cooperating with the CSA.

4. The ESA received the referral and entered it into the Client Assistance for Reemployment & Economic Support (CARES) system. This generated a notice dated September 9, 2014, informing petitioner her Caretaker Supplement benefits would cease effective October 1, 2014, based upon her failure to cooperate with child support. Petitioner was notified that she could appeal the termination of her Caretaker Supplement benefits, if she appealed by November 17, 2014. Exhibit 6.
5. Petitioner subsequently addressed her Child Support agency noncompliance issue and reapplied for Caretaker Supplement benefits on December 1, 2014. That application was approved and petitioner Caretaker Supplement (CTS) benefits were reinstated for December, 2014. Petitioner is not appealing from the December 1, 2014, notice approving her CTS application.
6. Petitioner filed an appeal on December 16, 2014, contesting the lack of CTS payments in October and November of 2014.

### DISCUSSION

An administrative law judge can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by the Department of Health Services, or its agents, concerning an Medical Assistance-related program like the Caretaker Supplement benefit, (CTS) must be filed within 45 days of the effective date of the negative action. Wis. Stat. § 49.45(5); and see, Wis. Admin. Code §§HA 3.03(4); 3.05(3), and 3.02(15). A negative action can be the denial of an application, reduction of benefits, or the termination of an ongoing case, as here.

Here, the October 1, 2014, discontinuance due to non-cooperation with Child Support constituted the negative action. Petitioner needed to appeal within 45 days of the date of that letter to contest the agency action.

Therefore, the petitioner's appeal was filed almost a full month after the expiration of the appeal time period. Thus, it was untimely, and no jurisdiction exists for considering the underlying factual merits of the case.

Even if the appeal had been timely, the petitioner failed to demonstrate any error on the part of the respondent. The Caretaker Supplement (CTS) is a cash benefit program. The program's benefit recipients are low-income parents who receive Supplemental Security Income (SSI) payments. These SSI parents receive CTS benefits for each of their eligible children.

In addition to meeting financial eligibility requirements, in order to receive and remain eligible for receipt of a Caretaker Supplement payment, a recipient must meet the Child Support cooperation requirements. Cooperation includes appearing for appointments at the Child Support Agency.

In this particular case the respondent's representative explained that her agency had received notification from the CSA that petitioner was not cooperating and had not presented good cause for her non-cooperation. The respondent responded to the CSA sanction request by discontinuing petitioner's Caretaker Supplement payments. The respondent presented the correct notice informing petitioner of that action and her right to appeal. See, Exhibit 6.

Petitioner testified at hearing that she had been homeless when the Child Support agency was trying to reach her. She noted, however that she did have a post office box. She stated that she was unable to get to the post office; when she finally did so in October, 2014, she finally received the June, 2014, letter from the Child Support agency. Her lack of response to the June, 2014 CSA letter led to the finding that she had failed to cooperate.

The CSA agency determined petitioner was not cooperating, and the respondent did not find she met any of the good cause reasons for not cooperating. After reviewing the case and petitioner's testimony, I must

agree. I did not find petitioner entirely credible in her assertions, and find it difficult to understand why petitioner could not get to her PO box at all during a four month stretch of time. CTS benefits require recipients comply with statutory and administrative mandates. The petitioner has not established good cause for failing to do so.

**CONCLUSIONS OF LAW**

That petitioner failed to timely appeal the termination of her CTS benefits for October and November of 2014.

**NOW, THEREFORE, it is ORDERED**

That petitioner’s appeal 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 25th day of March, 2015.

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\sPeter McCombs  
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 March 25, 2015.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability