



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

SSO/163015

PRELIMINARY RECITALS

Pursuant to a petition filed January 02, 2015, 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 March 17, 2015, at Appleton, Wisconsin.

The issue for determination is whether the petitioner must repay an alleged overpayment of SSI State Supplement Payments.

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 (written appearance)
Division of Health Care Access and Accountability

Madison, WI

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Outagamie County.
2. The petitioner received \$167.56 in State SSI payments from May through June, 2013.
3. The Social Security Administration determined that the petitioner was ineligible for federal SSI from May through June, 2013, due to income exceeding program limits.

4. The State SSI program seeks to recover the \$167.56 in payments the petitioner received from May through June, 2013, when petitioner was deemed ineligible for federal SSI.

DISCUSSION

Wisconsin law allows the Department of Health and Family Services to recover any incorrectly paid benefits within a year of when the incorrect payment was discovered. It does not matter whose fault caused the incorrect payment. Wis. Admin. Code, § DHS 2.04(1)(a). Overpayments are collected from state SSI or caretaker supplement payments at a rate of 10% of the total overpayment each month. Wis. Admin. Code § DHS 2.04(3). "Incorrectly paid benefits" means that the recipient was not eligible for the benefits during the period they were paid. Wis. Admin. Code § DHS 2.03(5). The petitioner was eligible for state SSI benefits only if she met the requirements of the federal program found in 42 USC 1381 through 1383d. Wis. Stat. § 49.77(2).

The State SSI Unit seeks to recover the \$167.56 in payments the petitioner received from May through June, 2013, because it contends that the federal government determined petitioner ineligible for benefits due to income exceeding program limits. Petitioner argued that she did nothing wrong and that she is still appealing the federal matter. While I understand her position, because the federal program determined that she was not eligible for this benefit, she also was not eligible of the state benefit. Therefore, I must uphold the agency's decision.

CONCLUSIONS OF LAW

The State SSI Unit has established that the petitioner was overpaid State SSI benefits from May through June, 2013, because the federal program determined that her income at that time exceeded program limits.

NOW, 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 26th day of March, 2015.

\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 26, 2015.

Division of Health Care Access and Accountability
State SSI