



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
Redact
[Redacted]

DECISION
SSP/165084

PRELIMINARY RECITALS

Pursuant to a petition filed March 31, 2015, under Wis. Admin. Code, §HA 3.03, to review a decision by the Division of Health Care Access and Accountability (DHCAA) to discontinue State Supplemental SSI benefits, a hearing was held on May 12, 2015, by telephone. A hearing set for April 22, 2015 was rescheduled at the petitioner's request.

No issue remains for determination.

PARTIES IN INTEREST:

Petitioner:

[Redacted]
[Redacted]
Redact
[Redacted]

Respondent:

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

By: Written submission of [Redacted], State SSI Analyst

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Lafayette County.
2. Petitioner received State SSI and Medical Assistance (MA) because he received federal SSI. By a notice dated March 18, 2015, the DHCAA informed petitioner that state SSI would end March 30, 2015, and MA would end April 30, 2015, because his federal SSI was ending.
3. The Social Security Administration (SSA) ended petitioner's SSI retroactive to October, 2014 with a finding that assets were over the limit.

- 4. By a notice dated May 12, 2015, the SSA informed petitioner that his SSI eligibility was restored retroactive to November 1, 2014 after a change in the asset determination.

DISCUSSION

Effective January 1, 1996, the State of Wisconsin began sending out its state supplemental SSI payments separately from federal SSI payments (they had previously been sent out as one check by the Social Security Administration). Petitioner was eligible for state supplemental SSI because he received a federal SSI payment. The statute reads, with the basis for petitioner's eligibility italicized, as follows:

49.77 State supplemental payments.

...

(2) ELIGIBILITY. (a) The following persons who meet the resource limitations and the nonfinancial eligibility requirements of the federal supplemental security income program under 42 USC 1381 to 1383d are entitled to receive supplemental payments under this section:

...

2. Any needy person or couple residing in this state and receiving benefits under federal Title XVI.

3. Any needy person or couple residing in this state whose income, after deducting income excludable under federal Title XVI, is less than the combined benefit level available under federal Title XVI and this section, if at least one of the following requirements are met:

a. The person or couple was eligible for a state supplement under this section based on the last federal eligibility determination prior to January 1, 1996, but was not eligible to receive a payment under federal Title XVI on that date.

4. Any essential person.

Wis. Stat., §49.77(2), emphasis added. Petitioner receives state supplemental SSI because he receives federal SSI (Title XVI). Because his federal SSI was terminated, the state also terminated his state SSI. However, the federal termination has been reversed, and thus the state termination also will be reversed.

CONCLUSIONS OF LAW

Petitioner remains eligible for state SSI because he is eligible for federal SSI.

THEREFORE, it is

ORDERED

That the matter be remanded to the agency with instructions to restore petitioner's state SSI eligibility retroactive to April 1, 2015, within 10 days of this decision if it has not already done so.

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 22nd day of May, 2015

\sBrian C. Schneider
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 May 22, 2015.

Division of Health Care Access and Accountability
State SSI