



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

SSO/165830

PRELIMINARY RECITALS

Pursuant to a petition filed May 01, 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 May 21, 2015, at Racine, Wisconsin.

NOTE: The record was held open for 30 days, until June 22, 2015, to give the Petitioner an opportunity to submit documentation showing that the Social Security Administration restored her benefits for July, August and September 2014. No documentation was received by the designated deadline.

The issue for determination is whether the Department of Health Services (DHS) correctly determined that the Petitioner was overpaid State Supplemental Security benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: None

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.

2. On April 23, 2015, DHS sent the Petitioner a Notice of State SSI and/or Caretaker Supplement Overpayment, indicating that she incorrectly received State SSI benefits in July, September and August 2014, totaling \$391.29. (Exhibits 2 and 3)
3. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on May 1, 2015. (Exhibit 1)
4. The Petitioner was denied Federal Supplemental Security benefits in July, September and August 2014, due to some confusion regarding her state tax return, which included a homestead credit. (See Exhibit 1; testimony of Petitioner)

DISCUSSION

The purpose of the State Supplemental Security Income is to provide a cash supplement to all Wisconsin residents who receive Federal SSI. *SSI Administration Handbook §1.1.1*. Thus, in order to receive State SSI benefits, a person must first qualify for and receive Federal SSI benefits. *SSI Administration Handbook §2.1.1*. The only people exempt from this rule are those individuals who, since prior to 1995, have been receiving only State SSI benefits. *Id.*

There is no assertion by Petitioner and no indication in the record, that she had been receiving State SSI benefits since before 1995. It is undisputed that the Social Security Administration determined the Petitioner to be ineligible for Federal SSI benefits in July, August, September 2014, because it believed the Petitioner went over the income limit. Consequently, the Petitioner was no longer eligible for State SSI benefits as of that date.

The Petitioner indicated that she and her husband were working with the Social Security Administration to get her Federal benefits back for July, August and September 2014. If they are successful, they need to provide documentation to the Wisconsin Department of Health Services and ask that it rescind the overpayment it is currently seeking to recover. However, until a Federal determination is made in the Petitioner's favor, the overpayment must be upheld.

CONCLUSIONS OF LAW

DHS correctly determined that the Petitioner was overpaid State SSI benefits, in the amount of \$391.29.

THEREFORE, it is

ORDERED

That the petition be 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 Milwaukee,
Wisconsin, this 24th day of June, 2015.

\sMayumi M. Ishii
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 June 24, 2015.

Division of Health Care Access and Accountability
State SSI