



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

SSP/172284

PRELIMINARY RECITALS

Pursuant to a petition filed February 23, 2016, 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 (DHCAA or Division) in regard to State Supplemental SSI benefits, a hearing was held on March 30, 2016, by telephone.

The issue for determination is whether the Department correctly sought to discontinue the petitioner's State Supplemental SSI payments effective March 1, 2016.

There appeared at that time 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 written submission of [REDACTED]
State SSI Analyst
Division of Health Care Access and Accountability
Madison, WI

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Portage County.
2. Prior to March 1, 2016, the petitioner received State Supplemental SSI payments (\$83.78 monthly). The Department notified the petitioner on February 17, 2016, that his State

Supplemental SSI benefits would be discontinued effective March 1, 2016. The petitioner appealed.

3. Prior to March 1, 2016, the federal Social Security Administration (SSA) notified the petitioner that his federal SSI payments would be discontinued on or before March 1, 2016.

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). The state statute that lists the eligibility criteria for State Supplemental SSI payments reads 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.

(emphasis added)

Wis. Stat. § 49.77(2). The State sought discontinuance of the State Supplemental benefit because it believed that petitioner did not meet the nonfinancial eligibility requirements of the federal SSI (*i.e.*, Title XVI) program as of March 1, 2016, based on information provided by the SSA.

If the petitioner is receiving federal SSI, he is eligible for State Supplemental SSI. Because he did not establish at hearing that he is currently receiving federal SSI, it follows that he is not currently eligible for State Supplemental SSI. Accordingly, I conclude that the state benefit discontinuance was correct.

The petitioner correctly noted that the federal SSA discontinued his federal SSI due to his increased earned income. He now states that his income has gone down, but that the Social Security Administration has not

acted on his new income information. The petitioner is encouraged to pursue this correction with the Social Security Administration. For assistance, he may wish to contact his county Aging and Disability Resource Center at [REDACTED] / local telephone of [REDACTED].

CONCLUSIONS OF LAW

1. The Department correctly discontinued the petitioner's State Supplemental SSI payments effective March 1, 2016, because the petitioner was not eligible for federal SSI at that time.

THEREFORE, it is

ORDERED

That the petition 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 1st day of April, 2016

\sNancy J. Gagnon
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 April 1, 2016.

Division of Health Care Access and Accountability
State SSI