



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

In the Matter of

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

DECISION

SSP/173854

PRELIMINARY RECITALS

Pursuant to a petition filed April 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 (Division or DHCAA) in regard to State Supplemental SSI benefits, a hearing was held on May 18, 2016, by telephone.

The issue for determination is whether the Department correctly sought to discontinue the petitioner's State Supplemental SSI payments effective April 30, 2016.

There appeared at that time 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 written submission of Melissa Sherry
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 Dane County.
2. Prior to May 1, 2016, the petitioner received State Supplemental SSI payments. The Department notified the petitioner on April 18, 2016, that his State Supplemental SSI benefits would be

discontinued effective May 1, 2016. The petitioner appealed, asserting that he had remedied his difficulties with the Social Security Administration.

3. Prior to May 2016, the federal Social Security Administration (SSA) notified the petitioner that his federal SSI payments would be discontinued retroactively, effective March 1, 2016.
4. The SSA issued written notification to the petitioner on May 6, 2016, that he was eligible for a reduced amount of federal SSI from February through May, 2016. It also advised that he would receive his full federal payment of \$708 for June 2016 forward.

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 eligibility requirements of the federal SSI (*i.e.*, Title XVI) program as of May 1, 2016, based on information provided by the SSA.

If the petitioner is nonfinancially and financially eligible for federal SSI, he is eligible for State Supplemental SSI. Because he *did* establish at hearing that he is currently eligible for federal SSI, it follows that he is currently eligible for State Supplemental SSI. The petitioner offered an SSA Award Letter,

confirming that he is on SSI. Accordingly, I conclude that the state benefit discontinuance proved to be incorrect.

CONCLUSIONS OF LAW

1. The Department incorrectly discontinued the petitioner's State Supplemental SSI payments effective May 1, 2016, because the petitioner has been reinstated as eligible for federal SSI at that time.

THEREFORE, it is

ORDERED

That the petition is remanded to the Department with instructions to reopen the petitioner's State Supplemental SSI case effective May 1, 2016, within 10 days of the date 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 7th day of June, 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 June 7, 2016.

Division of Health Care Access and Accountability
State SSI