



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCS/143050

PRELIMINARY RECITALS

Pursuant to a petition filed August 13, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on October 10, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the county agency correctly denied the petitioner's application for Medical Assistance because he does not meet non-financial eligibility requirements.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Pamela Hazely
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. He is a 57 year-old married man; not the caretaker of minors; and has not been adjudicated to be blind or disabled under Social Security regulations.
2. The petitioner applied at the county agency for Medical Assistance on August 1, 2012.

3. On January August 6, 2012, the county agency issued a Notice to the petitioner informing him that his application for MA was denied because to get health care benefits he must be a child under age 19, a relative who lives with and takes care of a child under 19, pregnant, disabled, age 65 or older, or blind, and he is not.
4. On August 10, 2012, the petitioner filed an appeal with the Division of Hearings & Appeals contesting the denial of his MA application.

DISCUSSION

The petitioner does not meet any of the non-financial criteria to be eligible for MA and/or MA BadgerCare, exactly as stated in the Notice. See, Finding of Fact #3, above; see, Exhibit #4; see, Wis. Stat. §49.47(4)(a). The petitioner reports that he is, in fact disabled and he presented a letter from his physician confirming his disability pertaining to his lumbar spine. See, Exhibit 2. He further testified that he has been recently approved for long term disability. However, as explained at the hearing, this need does not alone create eligibility for MA in Wisconsin. He does not at present meet any non-financial criteria. The only possible avenue of eligibility at present is to establish that he is medically disabled. To do so, he must file an application for Medical Assistance – Disability, and cooperate in establishing that his medical conditions render him disabled as defined under Social Security regulations, i.e., that he is so disabled that he cannot engage in any meaningful substantial work activity for 12 months or more due to documented health problems. He would be well-advised to file such an application and request a presumptive disability determination be performed immediately by the Department.

CONCLUSIONS OF LAW

That the petitioner does not meet non-financial eligibility criteria for regular MA or MA-BadgerCare and the agency correctly denied his application.

NOW, THEREFORE, it is **ORDERED**

That the petition for review herein be, and the same hereby is, dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,
Wisconsin, this 24th day of October, 2012

Peter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

█ H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 24, 2012.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability