



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

MGE/143096

PRELIMINARY RECITALS

Pursuant to a petition filed August 11, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Outagamie County Department of Human Services in regard to Medical Assistance, a telephone hearing was held on October 03, 2012, at Appleton, Wisconsin.

The issue for determination is whether the Department erred in discontinuing presumptive MA benefits after receiving a DDB determination that petitioner is not disabled.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Petitioner's Representative:

[REDACTED]

Respondent:

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

By: Robin O'Reilly

Outagamie County Department of Human Services
401 S. Elm Street

Appleton, WI 54911-5985

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Outagamie County.
2. Petitioner applied for MA-Disability in May 2012. He was granted presumptive MA benefits after all necessary paperwork was processed.
3. On July 13, 2012, the Disability Determination Bureau issued a determination finding that petitioner is not disabled.
4. Petitioner has applied for federal disability benefits and his application has been denied. His federal case is pending reconsideration.
5. The Department issued a notice on July 18, 2012 indicating that presumptive MA benefits would be terminated effective August 1, 2012.
6. Petitioner filed a timely request for hearing.

DISCUSSION

Persons between 18 and 65 who are not pregnant and have no children under 19 living with them are generally ineligible for regular medical assistance benefits unless they are disabled. Wis. Stat. §§ 49.46(1) and 49.47(4). However, those requiring emergency medical services can be found presumptively disabled, which entitles them to full medical assistance benefits. Wis. Adm. Code § DHS 103.03(1)(e). If the Disability Determination Bureau rules that a person found presumptively disabled is not in fact disabled, medical assistance benefits end after proper notice and should not continue while the matter is being appealed. *Medicaid Eligibility Handbook*, § 5.9.6.3.

The county agency found the petitioner presumptively disabled and approved him for medical assistance. However, on July 13, 2012, the Disability Determination Bureau found that he was not disabled. The Department ended his benefits on August 1, 2012. Petitioner's argument was only that he is, in fact, disabled. Petitioner did not allege any other error by the Department other than that his disability means he should get MA. Neither petitioner nor his representative seemed to understand that both the DDB and the SSA have found him not disabled. The Department, under the rules, was required to terminate benefits after the DDB finding. Petitioner must argue the incorrectness of the findings relating to disability in appeals of those findings.

CONCLUSIONS OF LAW

The Department did not err in terminating presumptive MA benefits after the DDB finding of no disability.

THEREFORE, it is

ORDERED

That this appeal 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, Room 651, 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 4th day of October, 2012

John P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals

c: Outagamie County Department of Human Services - email
Department of Health Services - email



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 4, 2012.

Outagamie County Department of Human Services
Division of Health Care Access and Accountability