



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

MKB/143266

PRELIMINARY RECITALS

Pursuant to a petition filed April 2, 2012, under Wis. Stat. § 49.45(5), to review a decision by the Disability Determination Bureau (DDB) to deny disability for Katie Beckett Medical Assistance (MA) purposes, a hearing was held on September 24, 2012, by telephone.

The issue for determination is whether petitioner is disabled.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: No Appearance
Disability Determination Bureau
722 Williamson St.
Madison, WI 53703

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is an 18-year-old resident of Walworth County.
2. Petitioner applied for MA on October 20, 2011. By a letter dated February 17, 2012, the DDB found that petitioner was not disabled. Petitioner sought reconsideration, but the DDB affirmed its determination on August 20, 2012.

3. After the MA application petitioner also applied for Supplemental Security Income (SSI). Those benefits were denied on August 17, 2012, with findings of no disability.
4. Petitioner does not allege any new medical impairment other than the impairments considered in the SSI decision.

DISCUSSION

The purpose of the "Katie Beckett" waiver is to encourage cost savings to the government by permitting disabled children, who would otherwise be institutionalized, to receive MA while living at home with their parents. Sec. 49.47(4)(c)1m, Wis. Stats. The agency is required to review Katie Beckett waiver applications in a five-step process. The first step is to determine whether the child is age 18 or younger and disabled. The remaining four steps are whether the child requires a level of care that is typically provided in a hospital, nursing home, or ICF-MR, assessment of appropriateness of community-based care, costs limits of community-based care, and adherence to income and asset limits for the child.

A person between ages 18 and 65, with no minor children, must be blind or disabled to be eligible for MA. A finding of disability must be in accordance with federal Social Security/SSI standards. See Wis. Stat. § 49.47(4)(a)4. Because the standards are the same, a finding of no disability for Social Security/SSI purposes made within 12 months of the MA application is binding on a State Medicaid (MA) agency. Exceptions may occur only if certain conditions exist such as allegations of a different disabling condition or changes in the previously considered conditions. None of the exceptions apply here. See 42 C.F.R. § 435.541(a); see also U.S. Department of Health and Human Services commentary, 54 Fed. Reg. 236 (1989).

Because petitioner has been denied Social Security/SSI following a finding of no disability, I must conclude that petitioner is not eligible for MA. At this point only the Social Security Administration can make a finding of disability for SSI purposes. If it does so (and petitioner's SSI application still is at the reconsideration stage), the MA program will follow that determination.

CONCLUSIONS OF LAW

Petitioner is not disabled as that term is used for Katie Beckett MA purposes.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 26th day of September, 2012

Brian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals

c: Bureau of Long-Term Support - 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 September 26, 2012.

Bureau of Long-Term Support
Division of Health Care Access and Accountability