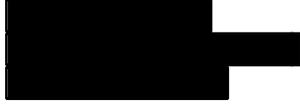




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MDD/145292

PRELIMINARY RECITALS

Pursuant to a petition filed September 25, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Kenosha County Human Service Department in regard to Medical Assistance, a hearing was held on December 18, 2012, at Kenosha, Wisconsin.

The issue for determination is whether whether the Disability Determination Bureau correctly found that petitioner was not disabled for purposes of qualifying for MA coverage.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Petitioner's Representative:



Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703
By: No Appearance

ADMINISTRATIVE LAW JUDGE:

Michael A. Greene
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Kenosha County.
2. Petitioner is impaired from the aftereffects of surgery for and arterial venous malformation in the brain. He applied for Elderly, Disabled, Blind Medical Assistance on June 23, 2012 and was found to be not disabled by the Disability Determination Bureau on September 7, 2012. Reconsideration was requested on September 11, 2012 and denied. Petitioner also applied for

disability benefits under Titles II and XVI of the federal Social Security Act. He was initially found to be not disabled on February 1, 2012. Reconsideration was denied June 8, 2012 and the denial was upheld by an administrative law judge after hearing on November 2, 2012.

DISCUSSION

A person not pregnant between the ages of 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, *Wis. Stats.* §49.47(4)(a)4. Because the standards are the same, a finding of no disability for Social Security/SSI purposes made within twelve months of the MA application is binding on a State MA agency. Exceptions may occur only if certain conditions exist such as: allegations of a disabling condition different from or in addition to that considered by the Social Security Administration (SSA), or allegations that the person's condition has changed or deteriorated since the SSA determination. If the person alleges that his or her previously considered condition has changed or deteriorated and it is within twelve months of the most recent SSA determination, it must also be the case either that the SSA has refused to consider the alleged changed condition or that the person fails to meet any of the other eligibility requirements for SSI. None of these exceptions apply here. See 42 CFR §435.541.

Because petitioner has been denied Social Security/SSI following a finding of no disability, this Administrative Law Judge must conclude that petitioner is not disabled for purposes of MA and is therefore not eligible for MA.

CONCLUSIONS OF LAW

Petitioner, having been found to be not disabled for purposes of Social Security Disability benefits and Supplemental Security Income is not disabled for purposes of MA and is not eligible for MA.

THEREFORE, it is

ORDERED

That the petition for review herein be and 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 served and 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 Milwaukee,
Wisconsin, this 28th day of December, 2012

\sMichael A. Greene
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 December 28, 2012.

Kenosha County Human Service Department
Disability Determination Bureau