



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

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In the Matter of

[REDACTED]

DECISION

MDD/145418

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 18, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Brown County Human Services in regard to Medical Assistance, a hearing was held on December 17, 2012, at Green Bay, Wisconsin.

The issue for determination is whether petitioner is disabled for purposes of MA-Disability.

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  
Madison, Wisconsin 53703  
By: No Appearance

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Brown County.
2. Petitioner applied for disability benefits with the federal Social Security Administration in early 2011. He continued working as a roofer.
3. Petitioner applied for state medical assistance ("MA") based on disability in February 2012.

4. The federal Social Security Administration determined that petitioner was not disabled on or around April 28, 2011.
5. The SSA affirmed this finding on September 23, 2011.
6. Petitioner has a pending appeal of the SSA finding.
7. Petitioner's application for disability was denied by the DDB on April 13, 2012. The finding, upon reconsideration, was subsequently affirmed.

### **DISCUSSION**

A person may be eligible for MA if they are blind or disabled. A finding of disability must be in accordance with federal social security/SSI/SSDI standards. See, Wis. Stat. § 49.47(4)(a)4. Because the standards are the same, a finding of no disability for Social Security/SSI/SSDI purposes is binding on a State Medicaid ["MA"] agency. 42 C.F.R. § 435.541(b)(1). Exceptions may occur only if certain conditions exist such as: allegations of a disabling condition different from or in addition to that considered by 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 it must be more than 12 months after the most recent SSA determination, it must also be the case that the person has not applied to SSA for a determination with respect to those allegations. None of the exceptions apply here. See, 42 C.F.R. § 435.541(c)(4).

Petitioner has been denied SSI and SSDI following a finding of no disability by the SSA and none of the exceptions apply. The most recent SSA determination that petitioner is not disabled was on September 23, 2011. Petitioner stated that his condition has worsened but did not describe any increase in severity of symptoms. He stated that he can only walk 3 blocks now, but also stated that he had the same limitation last December. Petitioner did not describe any other increase in severity of symptoms. Therefore, I must conclude that petitioner is not disabled for purposes of for MA. If petitioner has new information or evidence affecting previous SSA determinations she should contact the SSA and supply the SSA with that information. See, 42 C.F.R. § 435.541(b)(2).

### **CONCLUSIONS OF LAW**

For the reasons discussed above, petitioner is not disabled as that term is used for MA purposes pursuant to Wis. Stat. § 49.47(4)(a)4. (2009-10).

**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 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 Madison,  
Wisconsin, this 17th day of December, 2012

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\sJohn P. Tedesco  
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 17, 2012.

Brown County Human Services  
Disability Determination Bureau  
[cogray@bellin.org](mailto:cogray@bellin.org)