



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

MGE/145450

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 20, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Douglas County Department of Human Services in regard to Medical Assistance, a hearing was held on December 18, 2012, at Superior, Wisconsin.

The issue for determination is

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: Tom Ostrander

Douglas County Department of Human Services  
1316 North 14Th Street  
Suite 400  
Superior, WI 54880

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Douglas County.
2. The petitioner was found presumptively disabled by the county agency on September 4, 2012, and allowed him to begin receiving benefits back to September 1, 2012.
3. The petitioner seeks benefits retroactive to August 1, 2012.

### **DISCUSSION**

Persons between 18 and 65 who are not pregnant and have no children under 19 living with them are 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. Admin. Code § DHS 103.03(1)(e). Benefits begin on the date that the Disability Determination Bureau or the agency worker makes the presumptive disability finding. *Medicaid Eligibility Handbook*, § 5.9.5. The petitioner was found presumptively disabled by the county agency on September 4, 2012, and allowed him to begin receiving benefits back to September 1, 2012. He seeks benefits retroactive to August 1, 2012. There is no authority for the petitioner's request, and in fact the agency should not have allowed benefits retroactive to September 1.

I note that if he is found disabled, it is likely that he will receive the benefits he seeks.

### **CONCLUSIONS OF LAW**

The petitioner is not entitled to presumptive disability benefits the month before the agency found him eligible for those benefits.

**THEREFORE, it is**

**ORDERED**

The petitioner's 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 19th day of December, 2012

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\sMichael D. O'Brien  
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 19, 2012.

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