



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/146034

PRELIMINARY RECITALS

Pursuant to a petition filed December 17, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Marquette County Department of Human Services in regard to Medical Assistance, a hearing was held on March 27, 2013, at Montello, Wisconsin.

The issue for determination is whether the Department erred in terminating petitioner's MA after the DDB determined that he is not disabled.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Cheryl Selbach

Marquette County Department of Human Services
480 Underwood Avenue
PO Box 99
Montello, WI 53949-0099

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Marquette County.
2. Petitioner applied for MA-Disability.
3. Petitioner was granted presumptive benefits until determination by the DDB.

4. The DDB determined petitioner to be not disabled on September 26, 2012.
5. Petitioner filed a request for reconsideration. That request is pending before the DDB.

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 September 26, 2012, the Disability Determination Bureau found that he was not disabled. The Department ended petitioner's presumptive benefits. Petitioner did not allege any error by the Department other than that he is disabled and should get MA. But, the Department, under the rules, was required to terminate benefits after the DDB finding.

CONCLUSIONS OF LAW

The Department did not err in terminating MA benefits as petitioner has been determined by the DDB to be not disabled.

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 18th day of April, 2013

\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 April 18, 2013.

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