



FH

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

---

In the Matter of

██████████  
██████████  
██████████

REHEARING  
DECISION

MDD/147370

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed December 04, 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 ["County"] in regard to Medical Assistance ["MA"], a Hearing was scheduled for March 25, 2013. Petitioner failed to appear for that March 25<sup>th</sup> Hearing. Accordingly, a *Decision* dated March 28, 2013 was issued dismissing petitioner's petition as abandoned.

On April 4, 2013 the Division of Hearings and Appeals ["DHA"] received, via U.S. Mail postmarked April 1, 2013, a letter from petitioner dated April 1, 2013. That letter was a request for a rehearing. By a *Rehearing Request Order* dated April 10, 2013 DHA granted petitioner's request for a rehearing. A rehearing was held via telephone on April 25, 2013.

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

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

██████████  
██████████  
██████████

Respondent:

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

By: No Appearance

**OTHER PERSON PRESENT:**

██████████, petitioner's father

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

### **FINDINGS OF FACT**

1. Petitioner is a resident of Brown County.
2. In August 2012 petitioner applied for MA on the basis of disability. By a letter dated November 5, 2012 DDB found that petitioner was not disabled. On December 4, 2012 petitioner filed a *Medical Assistance -- Reconsideration Request*, but the DDB affirmed its determination of not disabled.
3. Petitioner applied for Supplemental Security Income ["SSI"; a.k.a. Title 16] and Social Security Disability Insurance ["SSDI"; a.k.a. Title 2] with the Social Security Administration ["SSA"]. On March 26, 2012 SSA determined that petitioner was not disabled and denied his application for SSI and SSDI. Petitioner requested reconsideration from SSA. SSA reconsidered and on November 2, 2012 SSA again determined that petitioner was not disabled and again denied his application for SSI and SSDI.
4. Petitioner does not allege that the SSA has refused to consider an alleged change or deterioration in his condition; he does not allege that he no longer meets the nondisability requirements for SSI.

### **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. (2011-12). 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) (2011). 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 the case that SSA has refused to consider the new allegations or it must be more than 12 months after the most recent SSA determination and 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) (2011); see also, U.S. Department of Health and Human Services commentary, 54 Fed. Reg. 236 (1989).

Petitioner has been denied SSI and SSDI following a finding of no disability by the SSA and none of the exceptions apply. Therefore, it must be concluded that petitioner is not disabled for purposes of MA. If petitioner has new information or evidence affecting previous SSA determinations he should contact the SSA and supply the SSA with that information. See, 42 C.F.R. § 435.541(b)(2) (2011).

### **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. (2011-12).

**NOW, THEREFORE, it is**

**ORDERED**

That the petition for review herein be and the same is hereby DISMISSED.

**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 29th day of April, 2013

---

\sSean P. Maloney  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

David H. Schwarz  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on April 29, 2013.

Brown County Human Services  
Disability Determination Bureau