



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

[REDACTED]

MGE/147473

[REDACTED]

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 19, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Rock County Department of Social Services in regard to Medical Assistance, a hearing was scheduled for March 27, 2013. Following three rescheduling requests by petitioner, a hearing was held on June 18, 2013, at Janesville, Wisconsin.

The issue for determination is whether the medical assistance benefits the petitioner received after being found presumptively disabled must end after the Disability Determination Bureau determines 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: Alisa Pritchard

Rock County Department of Social Services  
1900 Center Avenue  
PO Box 1649  
Janesville, WI 53546

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County.

2. The county agency found the petitioner presumptively disabled and approved him for medical assistance.
3. The Disability Determination Bureau made an initial determination that the petitioner was not disabled on February 7, 2013, and the county agency ended his Medical Assistance benefits on March 1, 2013.
4. The petitioner is an adult under 65 years old who has no minor children living with him.

### **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 subsequently 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 February 7, 2013, the Disability Determination Bureau found that he was not disabled. The county agency ended his benefits on March 1, 2013. The petitioner concedes that he is not eligible for medical assistance under any category other than disability. Therefore, I must uphold the agency's decision to end his benefits.

I certainly empathize with petitioner's situation; however, I cannot find that the respondent incorrectly terminated petitioner's enrollment in the Medical Assistance program. As noted at the hearing, he can qualify for medical assistance as a disabled person if he is, in fact, determined disabled. However, this can occur only after he has a determination of disability or successfully pursues a hearing that pertains specifically to whether he is disabled, as that term is defined for Medical Assistance purposes.

### **CONCLUSIONS OF LAW**

The county agency correctly ended the petitioner's eligibility for medical assistance based upon a presumptive disability after the Disability Determination Bureau found that he was not disabled.

**THEREFORE, it is**

**ORDERED**

That 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 8th day of August, 2013

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\sPeter McCombs  
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 August 8, 2013.

Rock County Department of Social Services  
Division of Health Care Access and Accountability