



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/147550

PRELIMINARY RECITALS

Pursuant to a petition filed February 24, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Department's Milwaukee Enrollment Services in regard to Medical Assistance (MA), a hearing was held on April 10, 2013, at Milwaukee, Wisconsin. The hearing record was extended 30 days for petitioner's submission of updated neurology records.

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

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: Mary Hartung, IM-Advanced
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]), age 50, is a resident of Milwaukee County.
2. Petitioner applied for MA in 2012, in connection with a hospitalization, and Presumptive Disability MA commenced. By letter dated February 6, 2013, the Bureau found that petitioner

was not disabled. On February 18, 2013, the Department issued written notice to the petitioner advising that her Presumptive Disability MA would be discontinued effective March 1, 2013.

3. Prior to or concurrently with the MA application, petitioner also applied for Social Security disability benefits and Supplemental Security Income (SSI). Those benefits were denied on February 27, 2013, with findings of no disability.
4. The petitioner does not allege any new medical impairment in addition to the impairments considered in the Social Security decision. Although she alleges a worsening of an impairment (neuropathy) considered in the Social Security decision, medical documentation of such a worsening since February 2013 is not in this record.

DISCUSSION

A person between ages 18 and 65, with no minor children, must be blind or disabled to be eligible for MA. A finding of disability must be in accordance with federal social security/SSI standards. See Wis. Stat. § 49.47(4)(a)4. Because the standards are the same, a finding of no disability for Social Security/SSI purposes made within 12 months of the MA application is binding on a State Medicaid (MA) agency. Exceptions may occur only if certain conditions exist such as allegations of a different disabling condition or changes in the previously considered conditions. None of the exceptions apply here. See 42 C.F.R. § 435.541(a); see also U.S. Department of Health and Human Services commentary, 54 Fed. Reg. 236 (1989).

Because petitioner has been denied Social Security/SSI following a finding of no disability, I must conclude that petitioner is not eligible for MA. This Decision has no effect on any appeal that the petitioner may have pending before the Social Security Administration.

For the future, the petitioner may wish to consider applying for MA or an insurance subsidy when the law changes effective January 1, 2014 (“ObamaCare”).

CONCLUSIONS OF LAW

Petitioner is not currently disabled as that term is used for MA purposes pursuant to Wis. Stat. § 49.47(4).

THEREFORE, it is

ORDERED

That the petition 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 29th day of May, 2013

\sNancy J. Gagnon
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 May 29, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability