



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MGE/148504

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**PRELIMINARY RECITALS**

Pursuant to a petition filed April 04, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Kenosha County Human Service Department in regard to Medical Assistance (MA), a hearing was held on April 23, 2013, at Kenosha, Wisconsin.

The issue for determination is whether petitioner is disabled for MA purposes effective June 1, 2010.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Petitioner's Representative:

Attorney Brenda Manning  
860 Northpoint Blvd  
Waukegan, IL 60085

Respondent:

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

By: Karen Mayer

Kenosha County Human Service Department  
8600 Sheridan Road  
Kenosha, WI 53143

**ADMINISTRATIVE LAW JUDGE:**

Kelly Cochrane  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. On August 26, 2010 petitioner applied for MA as a disabled person requesting a 3-month back date.

3. By letter dated September 23, 2010 the Disability Determination Bureau found that petitioner was not disabled. Petitioner sought reconsideration, but the DDB affirmed its determination on June 7, 2011. Petitioner then sought further review at the federal level.
4. On December 24, 2010 the MA agency was notified by the DDB that petitioner was found not disabled.
5. On January 5, 2011 the agency sent a notice to petitioner stating that he was not enrolled in MA because he was not disabled.
6. On September 15, 2012 the Social Security Administration issued a notice to petitioner that it found that he was found disabled as of January 1, 2005, and that he was entitled to monthly disability benefits beginning April 2010.
7. Petitioner requests that his MA be made effective June 1, 2010.

### **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. The petitioner applied for SSDI/SSI and for state MA. The Disability Determination Bureau denied both requests finding him not disabled. However, since then and his subsequent appeals, on September 15, 2012, the federal Social Security Administration overturned the Disability Determination Bureau's decision and found that he was found disabled as of January 1, 2005, and that he was entitled to monthly disability benefits beginning April 2010. This opinion requires me to also find that the petitioner is disabled for state MA purposes. His representative indicated at hearing that his request for MA was to begin on June 1, 2010, and this is within the time of his original request for backdated coverage. This means that he has been found non-financially eligible for MA. I will remand this matter to the agency to determine if he met the program's financial criteria.

### **CONCLUSIONS OF LAW**

Petitioner is disabled for MA purposes effective June 1, 2010.

**THEREFORE, it is**

**ORDERED**

That this matter is remanded to the agency with instructions that within 10 days of the date of this decision it find the petitioner eligible for medical assistance if he meets the program's financial requirements effective June 1, 2010, certify him for all MA eligibility to which he was entitled, if any, and issue a written notice regarding same.

### **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 Milwaukee,  
Wisconsin, this 4th day of June, 2013

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\sKelly Cochrane  
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 June 4, 2013.

Kenosha County Human Service Department  
Division of Health Care Access and Accountability  
[bmanning@brebnerlawfirm.com](mailto:bmanning@brebnerlawfirm.com)