



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/148841

PRELIMINARY RECITALS

Pursuant to a petition filed April 17, 2013, under Wis. Stat., §49.45(5), to review a decision by the Northern IM Consortium to discontinue Medical Assistance (MA), a hearing was held on May 29, 2013, by telephone.

The issue for determination is whether the county correctly closed MA when petitioner was determined to be not disabled.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Beulah Garcia
Northern IM Consortium
10610 Main St., Suite 224
Hayward, WI 54843

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a 56-year-old resident of Ashland County.
2. Petitioner applied for MA on October 12, 2012, seeking eligibility as a disabled adult. A disability application was forwarded to the Disability Determination Bureau (DDB).
3. On November 16, 2012 petitioner was determined to be presumptively disabled, and MA was opened for him effective that date.

4. On April 5, 2013, the DDB determined that petitioner was not disabled. By a notice dated April 15, 2013 the county agency informed petitioner that MA would be discontinued effective May 1, 2013 because of the non-disability determination.

DISCUSSION

An adult man between ages 18 and 65 who does not have minor children can be eligible for MA only if he is blind or disabled. Wis. Stat. §§49.46(1)(a) & 49.47(4)(a). The definition of disability is in accordance with federal SSI standards. Since petitioner has been found to be not disabled, he is not eligible for MA.

At hearing it was suggested that the law might allow MA to be continued while petitioner's reconsideration request is being reviewed. I conclude that MA cannot be continued.

The MA Handbook, Appendix 5.9.6.3, provides as follows: "If the DDB denies a disability application their decision reverses a PD [presumptive disability] decision made by the IM worker or by DDB. Terminate Medicaid eligibility following timely notice requirements. Medicaid eligibility based on a PD decision does not continue during the period a person is appealing DDB's decision that they are not disabled."

The disability process works as follows. A disability application is sent to the DDB. If the DDB finds no disability, it informs the applicant, and sends him an application for reconsideration. If he seeks reconsideration, and is denied again, then a hearing before the Division of Hearings and Appeals is scheduled.

If petitioner is determined to be disabled after reconsideration, his MA will be restored. At this point, the Division of Hearings and Appeals does not have jurisdiction to review his disability claim.

CONCLUSIONS OF LAW

1. The county correctly discontinued presumptive disability MA after the DDB denied MA.
2. Petitioner's disability status is not ripe for review by the Division of Hearings and Appeals because it is still being reviewed on reconsideration by the DDB.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 3rd day of June, 2013

\sBrian C. Schneider
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 3, 2013.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability