



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/149086

PRELIMINARY RECITALS

Pursuant to a petition filed April 30, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on June 18, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly terminated the Petitioner's Medicaid (MA) benefits effective May 1, 2013.

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: Katherine May
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On March 14, 2013, the Petitioner submitted an application for MA benefits. At the time the Petitioner applied for benefits, an application for a finding of disability was pending with the

Disability Determination Bureau (DDB). On April 5, 2013, the Petitioner was approved for MA benefits based on presumptive disability.

3. On April 11, 2013, the DDB found the Petitioner is not disabled. The agency was informed on April 15, 2013.
4. On April 17, 2013, the agency issued a Notice of Decision to the Petitioner informing him that his MA benefits would end effective May 1, 2013.
5. On April 30, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

To qualify for MA, an adult between ages 18 and 65, who does not have minor children, can be eligible for MA only if s/he is blind or disabled. Wis. Stats. §§ 49.46(1)(a) and 49.47(4)(a). A finding of disability must be in accordance with federal social security/SSI standards. See Wis. Stat. § 49.47(4)(a)4. The petitioner is between 18 and 65 years old and has no minor children. He was found to be MA-eligible for Elderly, Blind and Disabled (EBD) MA based on a presumptive finding of disability. The definition of disability is in accordance with federal SSI standards. Presumptive disability is a means of approving emergency Medical Assistance to a person before the Disability Determination Bureau (DDB) has an opportunity to make a determination as to a person's disability. However, the Bureau later determined that he was not disabled. Thus, the agency acted properly when it discontinued his MA eligibility after the finding that he is not disabled.

I note, as dicta, that the Petitioner testified that he has filed an appeal of the DDB's determination. He was advised that if this decision is not favorable to him and a decision is still pending on the DDB appeal, he can file a new application for presumptive disability until a decision is rendered on that appeal.

CONCLUSIONS OF LAW

The agency properly discontinued the Petitioner's MA benefits effective May 1, 2013.

THEREFORE, it is **ORDERED**

That the petition be, and hereby 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 Milwaukee,
Wisconsin, this 12th day of July, 2013

\sDebra Bursinger
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 July 12, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability