



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/149091

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 Rock County Department of Social Services in regard to Medical Assistance, a hearing was held on June 03, 2013, at Janesville, Wisconsin.

The issue for determination is whether respondent correctly discontinued petitioner's Medical Assistance benefits.

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: Sherry Quirk

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 petitioner is 32 years old and does not have placement of his minor children.

3. Petitioner applied for MA on or around July, 2012. He was approved based on a presumptive disability finding. On April 12, 2013, the respondent completed its analysis of petitioner's disability application, and found that petitioner was not disabled.
4. The agency sent a notice to the petitioner on April 17, 2013, stating that his MA would end on May 1, 2013, because he was no longer non-financially eligible.

DISCUSSION

A person between ages 18 and 65, with no minor children, must be blind or disabled to be eligible for MA. The petitioner is 32 years old and does not have placement of his minor children at least 40% of the time. A finding of disability must be in accordance with federal social security/SSI standards. See Wis. Stat. § 49.47(4)(a)4. However, those requiring emergency medical services can be found presumptively disabled, which entitles them to full medical assistance benefits. Wis. Admin. Code § DHS 103.03(1)(e). Benefits begin on the date that the Disability Determination Bureau or the agency worker makes the presumptive disability finding. *Medicaid Eligibility Handbook*, § 5.9.5. The petitioner was found presumptively disabled by the county agency on or about August 1, 2013, and it allowed him to begin receiving benefits. He had been eligible for Elderly, Blind and Disabled (EBD) MA based on a presumptive finding of disability. However, the respondent later determined that he was not disabled. Thus, he is not eligible for any variant of MA as he meets none of the necessary criteria.

Because petitioner has been determined to not have a disability, as that term is defined for Social Security purposes, I must conclude that petitioner is not eligible for MA at this time. There was testimony that petitioner may have or will appeal the disability denial; I note that if the petitioner wins an appeal of the disability decision, he would be eligible for MA from the date of onset, assuming he meets all other requirements. The petitioner may also reapply for MA.

CONCLUSIONS OF LAW

The respondent correctly terminated petitioner's MA enrollment due to petitioner's lack of non-financial eligibility.

THEREFORE, it is

ORDERED

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 10th day of July, 2013

\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 July 10, 2013.

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