



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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DECISION

MDD/149289

PRELIMINARY RECITALS

Pursuant to a petition filed April 30, 2013, under Wis. Stat., §49.45(5), to review a decision by the Disability Determination Bureau (DDB) to deny disability for Medical Assistance (MA), a hearing was held on July 25, 2013, by telephone. A hearing set for June 20, 2013 was rescheduled at the petitioner's request. The record was held open for 68 days for submission of additional medical evidence. No additional evidence was received.

The issue for determination is whether petitioner is disabled.

PARTIES IN INTEREST:

Petitioner:

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Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703
By: No Appearance

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 63-year-old resident of Dane County.
2. Petitioner applied for MA on July 18, 2013. By a letter dated January 28, 2013, the DDB found that petitioner was not disabled. Petitioner sought reconsideration, but the DDB affirmed its determination on May 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 January 28, 2013, with findings of no disability.

4. Petitioner alleged at the hearing that she has a torn retina, a new medical impairment not considered in the Social Security decision. The record was held open for petitioner to provide medical evidence of her alleged new impairment. Nothing was received by the deadline.

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).

As noted in the findings, petitioner stated during the hearing that she might have a torn retina, which potentially could be a new disabling condition that could give this office jurisdiction over her disability case. If so, the best I could do would be to find her disabled as of the onset of the new condition because she has been denied disability for SSI purposes based on her previously noted conditions. The record was held open and extended twice because petitioner needed to see a doctor about the eye condition. In her last contact petitioner stated that she had a September 21, 2013 appointment. As nothing has been received since that date I have to assume that the findings did not warrant a claim of a new impairment. I thus must affirm the denial based upon the SSI denial.

Because petitioner has been denied Social Security/SSI following a finding of no disability, I conclude that petitioner is not eligible for MA at this time.

After November 18, 2013, petitioner may wish to consider re-applying for Wisconsin Medicaid for January onward online at either <https://access.wisconsin.gov> or www.healthcare.gov. From January 1, 2014 forward, a person with income below \$11,170 will not have to prove that she is disabled to qualify for Wisconsin Medicaid.

CONCLUSIONS OF LAW

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

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 11th day of October, 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 October 11, 2013.

Dane County Department of Human Services
Disability Determination Bureau