



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/151989

PRELIMINARY RECITALS

Pursuant to a petition filed September 11, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane County Department of Human Services and the DDB in regard to Medical Assistance (MA), a hearing was held on November 5, 2013, at Madison, Wisconsin. The hearing record was held open with the petitioner's consent, to allow the Administrative Law Judge to obtain clarifying information from the Wisconsin Disability Determination Bureau (DDB or Bureau).

The issue for determination is whether petitioner is disabled for MA purposes.

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, Room 651
Madison, Wisconsin 53703

By: Ms. Kara Ponti, ES Supr.

Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County.

2. Petitioner applied for MA on February 21, 2013. By letter dated July 25, 2013, the Bureau found that petitioner was not disabled. Petitioner sought reconsideration, with the results of the Bureau's determination unknown at the time of hearing. The county agency issued a confirmatory denial notice to the petitioner on August 23, 2013.
3. Prior to the MA application, petitioner also applied for Social Security disability benefits and Supplemental Security Income (SSI). Those benefits were denied on December 10, 2012, with findings of no disability.
4. The petitioner alleges a worsening of the impairments considered in the Social Security decision. The hearing record was held open for the petitioner to file updated medical documentation and any relevant correspondence from the Social Security Administration about his pending appeal. SSA correspondence was not received (although the petitioner submitted his own letter). The record was also held open to permit the Administrative Law Judge to seek alternative clarification of the disability determination's status.
5. On January 10, 2014, this Administrative Law Judge received correspondence from [REDACTED] of the DDB. She advised that the last SSA denial was dated December 10, 2012. However, she noted that DDB had reviewed the petitioner's file and found him to be disabled for MA purposes on November 27, 2013. The DDB identified an onset date of *November 1, 2012*.

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. See 42 C.F.R. § 435.541(a).

Because the DDB has revised its position and found the petitioner to be disabled for MA purposes effective November 1, 2012, I will adopt that position here.

CONCLUSIONS OF LAW

Petitioner is disabled for MA purposes pursuant to Wis. Stat. § 49.47(4), with a disability onset date of November 1, 2012.

THEREFORE, it is

ORDERED

That the petition is *remanded* to the county agency with instructions to continue the processing of the petitioner's February 2013 MA application, in accord with the Conclusion of Law above. This action shall be commenced within 10 days of the date of this Decision, unless the agency has already done so.

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, Room 651, 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 14th day of January, 2014

\sNancy J. Gagnon
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 January 14, 2014.

Dane County Department of Human Services
Division of Health Care Access and Accountability