



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MGE/152904

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 21, 2013, under Wis. Stat., §49.45(5), to review a decision by the La Crosse County Department of Human Services to discontinue Medical Assistance (MA), a hearing was held on December 11, 2013, by telephone.

The issue for determination is whether petitioner is entitled to continued presumptive disability MA while disability reconsideration is pending.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Thomas Miller  
La Crosse County Dept. of Human Services  
P.O. Box 4002  
La Crosse, WI 54601

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Trempealeau County.
2. Petitioner applied for MA in 2013. While her disability application was being reviewed, she was granted presumptive disability (PD) for the period beginning May 1, 2013.
3. On September 20, 2013, the Disability Determination Bureau (DDB) determined that petitioner was not disabled. By a notice dated October 7, 2013, the county informed petitioner that MA would end November 1, 2013, due to the finding of no disability.

4. Petitioner filed for disability reconsideration, which was still pending as of the date of the hearing. MA was ordered to be continued pending this decision.

### **DISCUSSION**

An adult between ages 18 and 65, who is not pregnant and who does not have minor children, can be eligible for MA only if she 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, she is not eligible for MA.

The MA Handbook, Appendix 5.9.6.3, provides as follows: "If the DDB denies a disability application their decision reverses a PD 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 her an application for reconsideration. If she 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, her MA will be restored. At this point, the Division of Hearings and Appeals does not have jurisdiction to review her disability claim (I note that it appears that the reconsideration was denied and a hearing is scheduled later this month).

### **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, 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 15th day of January, 2014

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\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 January 15, 2014.

La Crosse County Department of Human Services  
Division of Health Care Access and Accountability