



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

██████████ ██████████  
██  
██

DECISION

MDD/153747

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 06, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Adams County Health and Human Services in regard to Medical Assistance, a telephone hearing was held on January 06, 2014.

The issue for determination is whether petitioner is disabled.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

██████████ ██████████  
██  
██

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703  
By: No Appearance

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a 47 year old resident of Adams County.
2. The petitioner applied for medical assistance based upon a disability on April 15, 2013. The Disability Determination Bureau most recently found that she was not disabled on November 20, 2013.
3. The petitioner has complained of chronic back pain, carpal tunnel syndrome, asthma, depression and anxiety.

4. Patient is seen only by her primary care physician, and has not been hospitalized for or otherwise received psychiatric treatment.
5. The petitioner has a high school degree and a certificate pertaining to training as an administrative assistant.
6. Her last employment was with [REDACTED] resort, where she worked in housekeeping.

**DISCUSSION**

As an adult female under 65 with no minor children, the petitioner must be disabled to receive medical assistance. Wis. Stat. §§ 49.46(1) and 49.47(4). To be found disabled she must meet the Supplemental Security Income (SSI) definition of disability. Wis. Stat. § 49.47(4)(a)4. The applicable SSI disability standards are found in the Code of Federal Regulations, Title 20, Part 416, Subpart I, and by reference Appendices 1 and 2, Subpart P, Part 404. She is disabled if she cannot engage in any substantial gainful activity because of a medically determinable physical or mental condition that will, or has, lasted at least twelve months. To determine if she meets this definition, the following are evaluated in sequence: her current employment status, the severity of her medical condition, and her ability to return to vocationally relevant past work or to adapt to new forms of employment. 20 C.F.R. § 416.905 and § 416.920.

The SSI regulations require a five-step process. First, if the petitioner is working at a job that is considered to be substantial gainful employment, she will be found to be not disabled without further review. As she is not working, the Bureau must determine if she has a “severe impairment.” A severe impairment is one that limits her ability to do basic work activities. 20 C.F.R. § 416.921. The bureau determined that she does not have a severe impairment. I concur. I found much of the petitioner’s testimony to be unsupported by the medical records, and therefore less credible. The petitioner’s file indicates that she has some depression related to pain and her physical issues, but there is no evidence in that file that this problem severely limits her ability to function. Clearly, petitioner’s physical ailments do not preclude her from substantial gainful activity, though arguably housekeeping may exacerbate her carpal tunnel and/or asthma complaints. Still, the Bureau found that petitioner’s depression and anxiety were not severe, and based upon the record before me, I agree that petitioner does not meet the disability determination standards.

**CONCLUSIONS OF LAW**

The petitioner is not disabled.

**NOW, THEREFORE, it is ORDERED**

That the petition herein be and the same 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, 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 28th day of January, 2014

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\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 January 28, 2014.

Adams County Health and Human Services  
Disability Determination Bureau