



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

██████████  
██████████  
██████████

DECISION

MDD/153962

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 26, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services and the Wisconsin Disability Determination Bureau (DDB or Bureau) in regard to Medical Assistance (MA), a hearing was held on January 15, 2014, by telephone.

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:

██████████  
██████████  
██████████

Petitioner's Representative:

██████████  
██  
██

Respondent:

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

**ADMINISTRATIVE LAW JUDGE:**

Nancy J. Gagnon  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Milwaukee County.
2. Petitioner, age 54, applied for MA on December 27, 2012. By letter dated July 11, 2013, the Bureau found that petitioner was not disabled. Petitioner sought reconsideration, but the Bureau affirmed its determination on December 3, 2013. The Bureau concluded that the petitioner remains capable of "medium work."

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 7, 2011, with findings of no disability.
4. The petitioner does not allege any new medical impairment in addition to the impairments considered in the previous Social Security decision. He does allege a worsening of those impairments, but the documentation in Exhibit 1 does not establish that his impairments meet the disability standards.

### **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, and is of persuasive value thereafter. 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).

Because petitioner has been denied Social Security/SSI following a finding of no disability, and documentation does not show a worsening to a disabling level, I conclude that petitioner is not eligible for MA. *This decision does not affect the outcome of any appeal that the petitioner may have pending before the Social Security Administration.*

***The laws affecting Medicaid eligibility are changing. In March 2014, the petitioner may wish to go online to <https://access.wisconsin.gov> and file a new Medicaid/BadgerCare Plus application with the state.*** Effective April 1, 2014, a person with gross income under \$11,490 yearly will be eligible for Medicaid in Wisconsin without having to prove disability. This unemployed petitioner may find this useful.

### **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 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 31st day of January, 2014

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\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 February 3, 2014.

Milwaukee Enrollment Services  
Disability Determination Bureau  
[REDACTED]@ncogroup.com