FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[redacted]

DECISION

MDD/154779

PRELIMINARY RECITALS

Pursuant to a petition filed November 12, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Oconto County Department of Health And Human Servi in regard to Medical Assistance, a hearing was held on February 17, 2014, at Oconto, Wisconsin.

The issue for determination is whether petitioner is disabled for purposes of state MA based on disability.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:
Petitioner:

[redacted]

Respondent:

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

ADMINISTRATIVE LAW JUDGE:
John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Oconto County.
2. Petitioner applied for federal disability benefits through the Social Security Administration.
3. Petitioner applied for state medical assistance based on disability by application filed on or around September 26, 2013.

4. On October 8, 2013, the Disability Determination Bureau fround petitioner not disabled for purposes of federal social security benefits. This decision was affirmed by the DDB on November 11, 2013 after reconsideration.

5. On November 1, 2013, the Department informed petitioner by letter that he was also not disabled for purposes of state MA based on disability.

DISCUSSION

A person may be eligible for MA if they are blind or disabled. A finding of disability must be in accordance with federal social security/SSI/SSDI standards. See, Wis. Stat. § 49.47(4)(a)4. Because the standards are the same, a finding of no disability for Social Security/SSI/SSDI purposes is binding on a State Medicaid ["MA"] agency. 42 C.F.R. § 435.541(b)(1). Exceptions may occur only if certain conditions exist such as: allegations of a disabling condition different from or in addition to that considered by SSA; or, allegations that the person's condition has changed or deteriorated since the SSA determination. If the person alleges that his or her previously considered condition has changed or deteriorated it must be more than 12 months after the most recent SSA determination, it must also be the case that the person has not applied to SSA for a determination with respect to those allegations. None of the exceptions apply here.

Petitioner has been denied SSI and SSDI following a finding of no disability by the SSA and none of the exceptions apply. The most recent SSA determination that petitioner is not disabled was on November 11, 2013. The testimony at hearing indicated that there has been no significant change in petitioner's condition since the time of the federal and DDB determinations. Therefore, I must conclude that petitioner is not disabled for purposes of for MA. If petitioner has new information or evidence affecting previous SSA determinations petitioner should contact the SSA and supply the SSA with that information.

CONCLUSIONS OF LAW

For the reasons discussed above, petitioner is not disabled as that term is used for MA purposes.

THEREFORE, it is **ORDERED**

That this appeal 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 6th day of March, 2014

_____

\sJohn P. Tedesco
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 March 6, 2014.

Oconto County Department of Health And Human Services
Disability Determination Bureau