



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION ON REHEARING

MDD/154780

PRELIMINARY RECITALS

Pursuant to a petition filed December 9, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Sauk County Department of Human Services in regard to Medical Assistance (MA), a hearing was scheduled for February 20, 2014. The Judge was not able to reach the petitioner, and the case was dismissed. The petitioner timely requested rehearing, which was granted. The hearing was then held on April 4, 2014, by telephone.

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

There appeared at that time 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: No Appearance

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]), age 47, is a resident of Sauk County.
2. Petitioner applied for MA on February 25, 2013. By letter dated November 27, 2013, the Bureau found that petitioner was not disabled. Petitioner sought reconsideration, but the Bureau affirmed its determination on January 10, 2014.

3. Prior to or concurrently with the MA application, petitioner also applied for Social Security disability benefits and Supplemental Security Income (SSI). Those benefits were denied on December 11, 2013, with findings of no disability.
4. The petitioner does not allege any new medical impairment in addition to the impairments considered in the Social Security decision. She did allege a worsening of her asthma, which was considered in the Social Security decision, but existing medical records do not support that assertion. An x-ray taken on November 13, 2013, showed increased calcification of the lateral clavicular joint, but the examining physician noted full range of motion in the joint and normal grip strength. The x-ray also showed mild degenerative changes to the facets at L3, L4, and L5. The physician noted normal reflexes, and no tenderness or spasm in the back. Gait and station were within normal limits. Thus, the petitioner's current medical documentation does not support a disability finding.

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. 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, I must conclude that petitioner is not eligible for MA. *This MA decision has no effect on the outcome of any appeal that the petitioner may have pending before the Social Security Administration.*

...

The Wisconsin law on Medicaid eligibility changed significantly effective April 1, 2014. In February or March 2014, the petitioner applied for BadgerCare Plus (BC+), which is a subset of the Wisconsin Medicaid program for non-disabled persons. On March 4, 2014, she was found eligible for BC+, beginning April 1, 2014. Thus, the petitioner is now covered by the BC+ insurance. Unless the petitioner's income increases to more than \$972.50 monthly as a household of one person, she should remain eligible for BC+ until her case is reviewed in February or March 2015.

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.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in

this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 7th day of April, 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 April 7, 2014.

Sauk County Department of Human Services
Disability Determination Bureau