



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MAP/154781

PRELIMINARY RECITALS

Pursuant to a petition filed January 15, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Disability Determination Bureau in regard to Medical Assistance, a hearing was held on February 18, 2014, at Menomonie, Wisconsin.

There is no issue for determination because the petitioner's appeal is premature.

There appeared at that time and place 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

Disability Determination Bureau
722 Williamson St.
Madison, WI 53703

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Dunn County.
2. On January 14, 2014, the petitioner asked that the Disability Determination Bureau to reconsider its denial of her request for medical assistance based upon a disability. She also asked that her request constitute an appeal to the Division of Hearings and Appeals.

DISCUSSION

On January 14, 2014, the petitioner asked the Disability Determination Bureau to reconsider its denial of her request for medical assistance based upon a disability. She also asked that her request constitute an appeal to the Division of Hearings and Appeals. There was no need to file an appeal because the Division automatically grants an appeal and schedules a hearing if the reconsideration request is denied. When an appeal is filed before that occurs, the Division of Hearings and Appeals does not receive the disability file, and thus lacks the documentation necessary to make a determination. In addition, processing an appeal before the Disability Determination Bureau considers the reconsideration request is inefficient because it forces the Division of Hearings and Appeals to make a decision in a matter where a decision may be unnecessary. I am going to dismiss the petitioner's appeal with the understanding that she will get another appeal if the Disability Determination Bureau denies her most recent request.

CONCLUSIONS OF LAW

The petitioner's appeal is premature.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed without prejudice

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 11th day of March, 2014

\sMichael D. O'Brien
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 11, 2014.

Dunn County Department of Human Services
Division of Health Care Access and Accountability