



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MGE/155125

PRELIMINARY RECITALS

Pursuant to a petition filed January 27, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Waukesha County Health and Human Services in regard to Medical Assistance, a hearing was held on March 20, 2014, at Waukesha, Wisconsin.

The issue for determination is whether the agency properly denied the Petitioner's MA application.

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: Kathy Jones
Waukesha County Health and Human Services
514 Riverview Avenue
Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Waukesha County.
2. On July 26, 2013, the Petitioner filed an application for MA benefits. Presumptive disability was confirmed effective July 1, 2013.

3. On August 2, 2013, the agency issued a Notice of Decision notifying the Petitioner that his application was approved and that he would receive health care benefits until there is a change in the case.
4. On January 1, 2014, the Disability Determination Bureau found the Petitioner is not disabled based on a finding of no disability by the Social Security Administration (SSA) on January 9, 2014. The Petitioner has appealed the finding of the SSA.
5. On January 17, 2014, the agency issued a Notice of Decision informing the Petitioner that his health care benefits would end on February 1, 2014 based on the finding of no disability.
6. On January 27, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### **DISCUSSION**

In order to be non-financially eligible to receive Elderly, Blind or Disabled Medical Assistance, you must be 65 or older, blind or disabled. Wis. Stat. § 49.47(4)(a). Petitioner is not elderly or blind. The SSA has found the Petitioner is not disabled. The definition of disability for purposes of MA eligibility is in accordance with federal regulations. Since petitioner has been found to be not disabled by SSA, he is not currently eligible for MA. He will not be eligible unless the SSA reverses its denial decision. If that occurs, the Petitioner can file a new application for MA. In the alternative, he can file a new application 12 months after the SSA decision. The MA agency is bound by the federal agency's disability determination for at least 12 months.

This decision does not prevent the Petitioner from seeking affordable insurance from the Marketplace under the Affordable Care Act while his SSA appeal is pending.

### **CONCLUSIONS OF LAW**

The agency properly denied the Petitioner's MA application.

**THEREFORE, it is**

**ORDERED**

That the Petitioner's 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 Milwaukee,  
Wisconsin, this 15th day of April, 2014

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\sDebra Bursinger  
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 15, 2014.

Waukesha County Health and Human Services  
Division of Health Care Access and Accountability