



FH

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

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MAP/158227

PRELIMINARY RECITALS

Pursuant to a petition entitled *Medicaid -- Adult Reconsideration Request* filed May 7, 2014, under Wis. Stat. § 49.45(5) (2011-12) and Wis. Adm. Code § HA 3.03(1) (December 2013), to review decisions by the Disability Determination Bureau ["DDB"] in regard to Medical Assistance ["MA"] disability and in regard to the Medicaid Purchase Plan ["MAPP"], a Hearing was held via telephone on July 2, 2014.

The issues for determination are:

- (I) whether petitioner is disabled for purposes of MA ["MA Disabled"]; and,
- (II) whether petitioner is eligible for MAPP.

There appeared at that time via telephone 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:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (49 years old) is a resident of Green County, Wisconsin.
2. On or about November 18, 2013 petitioner applied for MA and for MAPP. By letter dated March 26, 2014 DDB found that petitioner was not disabled and not eligible for MA or for MAPP. On May 7, 2014 petitioner filed a *Medicaid -- Adult Reconsideration Request*, but DDB affirmed its determination of not disabled and its determination that petitioner was not eligible for either MA or MAPP.
3. DDB found petitioner to be not disabled because it determined that he is capable of doing work other than work he has done in the past (Reg-Basis Code N32).
4. Petitioner applied for Supplemental Security Income ["SSI"; a.k.a "Title 16"] and Social Security Disability Insurance ["SSDI"; a.k.a "Title 2"] with the Social Security Administration ["SSA"]. On March 25, 2014 SSA denied petitioner's application for SSI and SSDI because it determined that petitioner is not disabled. Petitioner requested reconsideration from the SSA. SSA reconsidered but on June 4, 2014 SSA again denied petitioner's application for SSI and SSDI because it again determined that petitioner is not disabled.
5. Petitioner does not allege any of the following: that he has a disabling condition different from or in addition to that considered by the SSA; that the SSA has refused to consider an alleged change or deterioration in his condition; or, that the he no longer meets the nondisability requirements for SSI.
6. Petitioner is not engaged in gainful employment or participating in a program that is certified by the Wisconsin Department of Health Services ["DHS"] to provide health and employment services that are aimed at helping the individual achieve employment goals; he has not participated in MAPP for at least 6 months.

DISCUSSION

Petitioner may be eligible for the benefits offered by the Wisconsin Medical Assistance program if he is either MA Disabled or eligible for MAPP. DDB determined that petitioner was not disabled for either MA or MAPP.

(I) MA DISABLED

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. (2011-12). 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) (2012). 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 the case that SSA has refused to consider the new allegations or it must be more than 12 months after the most recent SSA determination and the person has not applied to SSA for a determination with respect to those allegations. None of the exceptions apply here. See, 42 C.F.R. § 435.541(c)(4) (2012); see also, U.S. Department of Health and Human Services commentary, 54 Fed. Reg. 236 (1989).

Petitioner has been denied SSI and SSDI following a finding of no disability by the SSA and none of the exceptions apply. Therefore, it must be concluded that petitioner is not disabled for purposes of MA. If petitioner has new information or evidence affecting previous SSA determinations he should contact the SSA and supply the SSA with that information. See, 42 C.F.R. § 435.541(b)(2) (2012).

(II) MAPP

MAPP is the MA program that is allowed under section 49.472 of the Wisconsin Statutes. Wis. Admin. Code § DHS 101.03(94m) (December 2008). There are several eligibility requirements that must be satisfied before a person is eligible for MAPP. See, Wis. Stat § 49.472(3) (2011-12) & Wis. Admin. Code Chapter DHS 103 (December 2008).

One of the eligibility requirements for MAPP that must be satisfied is: "The individual is engaged in gainful employment or is participating in a program that is certified by [DHS] to provide health and employment services that are aimed at helping the individual achieve employment goals." Wis. Stat. § 49.472(3)(g) (2011-12); See also, Wis. Admin. Code § DHS 103.03(1)(g)1. (December 2008). Petitioner does not satisfy this requirement so he is not eligible for MAPP. Under certain circumstances this requirement may be waived either by the county agency or by DHS -- but the waiver is only for people who have participated in MAPP for at least 6 months. Wis. Admin. Code § DHS 103.03(1)(g)1.c. (December 2008). There is no evidence in the record of this matter that either the county agency or DHS has waived this requirement.

CONCLUSIONS OF LAW

- (I) Petitioner is not MA Disabled; and,
- (II) Petitioner is not eligible for MAPP.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein be and the same hereby is DISMISSED.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 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 July, 2014

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 7, 2014.

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