FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[redacted]

DECISION

MDD/163169

PRELIMINARY RECITALS

Pursuant to a petition filed July 29, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Marathon County Department of Social Services in regard to Medical Assistance, a hearing was held on February 10, 2015, at Wausau, Wisconsin.

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

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 Marathon County.
2. Petitioner applied for state medical assistance based on disability.
3. Petitioner also applied for federal social security benefits based on disability.
4. On 7/14/14, the petitioner was found not disabled by the Disability Determination Bureau for purposes of federal social security benefits. Petitioner sought reconsideration.

5. On 7/22/14, the Department of Health Services informed petitioner that his application for state MA based on disability was denied.

6. On 12/30/14, the DDB affirmed its finding of no disability for federal social security purposes. Petitioner has appealed this federal determination and is awaiting an appeal hearing.

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 12/30/14. 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

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 12th day of February, 2015

\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 February 12, 2015.

Marathon County Department of Social Services
Disability Determination Bureau