FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

MDD/165591

PRELIMINARY RECITALS

Pursuant to a petition filed February 17, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Wisconsin Department of Health Services, Disability Determination Bureau (DDB or Bureau) in regard to Medical Assistance (MA) - Disability, a hearing was held on July 2, 2015, by telephone. A hearing set for May 26, 2015, was rescheduled at the petitioner's request.

The issue for determination is whether petitioner is disabled.

There appeared at that time the following persons:

PARTIES IN INTEREST:
Petitioner:

Redact

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, age 24, is a resident of Dodge County.
2. Petitioner applied for MA on May 14, 2014. By letter dated February 4, 2015, the Bureau found that petitioner was not disabled. Petitioner sought reconsideration, but the Bureau affirmed its determination on April 22, 2015.

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 April 3, 2015, with findings of no disability.

DISCUSSION

A person between ages 18 and 65, with no minor children, must be blind or disabled to be eligible for MA-disability. 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. 42 C.F.R. § 435.541(a).

The petitioner is currently covered by BadgerCare Plus. There is no disability test for BadgerCare Plus; low income is required. The petitioner receives the same hospital and physician services coverage under BadgerCare Plus as he would under disability-based MA. At hearing, the petitioner chose not to proceed further with this MA-Disability appeal.

The petitioner's primary concern at hearing was his apparent denial of the SSI cash benefit by the Social Security Administration. Notations in my file suggest that the Social Security Administration determined that the petitioner has significant impairments but is capable of at least medium level work (in terms of physical demands). SSI denials must be appealed to the Social Security Administration, not a state judge such as myself. This judge suggested that the petitioner may wish to contact Disability Rights Wisconsin at www.disabilityrightswi.org for further guidance on this topic.

CONCLUSIONS OF LAW

Petitioner is not disabled as that term is used for MA purposes pursuant to Wis. Stat. § 49.47(4), and no longer wishes to purse this MA-Disability appeal.

THEREFORE, it is **ORDERED**

That the petition for review 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 3rd day of July, 2015

\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 July 3, 2015.

Dodge County Department of Human Services
Disability Determination Bureau