



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact
c/o *Redact*
Redact
Redact

DECISION

MKB/165907

PRELIMINARY RECITALS

Pursuant to a petition filed March 30, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Disability Determination Bureau in regard to Medical Assistance, a hearing was held on May 27, 2015, by telephone.

The issue for determination is whether petitioner is disabled for Medical Assistance (MA) purposes.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact
By: *Redact*
Redact
Redact

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:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Brown County.
2. Petitioner has been certified for Katie Beckett MA (an MA variant for disabled children) for several years. His case came up for a periodic review in the fall of 2014, shortly before his 18th birthday. By letter dated February 26, 2015, the Bureau found that petitioner was no longer

disabled. Petitioner sought reconsideration, but the Bureau affirmed its determination on May 5, 2015, citing Social Security Disability Vocational Rule 204.00.

3. Prior to or concurrently with the MA review, petitioner also applied for Supplemental Security Income (SSI) through the Social Security Administration. Those benefits were denied on April 29, 2015, with findings of no disability.
4. The petitioner does not allege any new medical impairment in addition to those considered in the Social Security decision. The petitioner has an IQ of 88. His impairments include autism, ODD, ADHD, bipolar disorder, asthma, hypopituitarism, hypothyroidism, obesity, diabetes mellitus type 2, and a speech impediment. He does not allege any worsening of the impairments considered in the Social Security decision, with the exception of his diabetes mellitus. Documentation of a worsening of the diabetes to a disabling level was not proffered.

DISCUSSION

A person between ages 18 and 65, with no minor children, must be blind or disabled to be eligible for MA. 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. Exceptions may occur only if certain conditions exist such as allegations of a different disabling condition or changes in the previously considered conditions. None of the exceptions apply here. See 42 C.F.R. § 435.541(a); see also U.S. Department of Health and Human Services commentary, 54 Fed. Reg. 236 (1989).

Because petitioner has been denied Social Security/SSI following a finding of no disability, I must conclude that petitioner is not eligible for MA. *This MA decision has no effect on any SSI appeal that the petitioner may have pending before the Social Security Administration.* The petitioner may wish to contact Disability Rights Wisconsin (DRW) for help with his federal SSI issue. DRW has offices in Madison, Milwaukee and Rice Lake. The Milwaukee office number is 414-773-4646; the toll free Madison office number is 800-928-8778.

CONCLUSIONS OF LAW

Petitioner is not disabled as that term is used for MA purposes pursuant to Wis. Stat. § 49.47(4).

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 27th day of June, 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 June 29, 2015.

Brown County Human Services
Bureau of Long-Term Support
Division of Health Care Access and Accountability