



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MKB - 176171

PRELIMINARY RECITALS

Pursuant to a petition filed May 16, 2016, under Wis. Stat., §49.45(5), to review a decision by the Disability Determination Bureau (DDB) to deny disability for Katie Beckett Medical Assistance (MA) purposes, a hearing was held on September 22, 2016, by telephone. The record was held open for submission of additional documents; they were received on September 26, 2016.

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

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

;

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: No Appearance

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is an 11-year-old resident of Dane County.
2. An application for Katie Beckett MA was filed on petitioner's behalf on November 25, 2015. By a letter dated April 8, 2016, the DDB found that petitioner was not disabled. Petitioner sought reconsideration, but the DDB affirmed its determination on August 11, 2016.

3. Prior to the MA application, petitioner also applied for Supplemental Security Income (SSI). Those benefits were denied on September 29, 2015, with findings of no disability. An appeal is pending.
4. Petitioner does not allege any new medical impairment other than the impairments considered in the SSI decision.

DISCUSSION

The purpose of the "Katie Beckett" waiver is to encourage cost savings to the government by permitting children under age 18, who are totally and permanently disabled under Social Security criteria, to receive MA while living at home with their parents. Wis. Stat., §49.47(4)(c)1m. The Division of Long Term Care is required to review "Katie Beckett" waiver applications in a five-step process. The first step is to determine whether the child is age 18 or younger and disabled. The disability determination is made for the Division by the DDB.

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 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).

Petitioner's representatives provided substantial information that petitioner's medical condition appears to be worsening, particularly in the school setting. Under the federal regulation, however, this agency can review a worsened condition only if one year passed between the SSI disability denial and the MA application. 42 C.F.R. §435.541(c)(4)(ii). If less than one year has passed the SSI determination remains controlling. Because petitioner's Katie Beckett application was filed approximately two months after the most recent SSI disability denial, the SSI denial must control.

Because petitioner has been denied SSI following a finding of no disability, I must conclude that she is not eligible for MA. Petitioner should be sure to follow up with her SSI appeal. At this time only the Social Security Administration can make a finding that she is disabled, but if it does, the MA program will follow that decision automatically.

CONCLUSIONS OF LAW

Petitioner is not disabled for MA purposes.

THEREFORE, it is

ORDERED

That the petition for review is hereby 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, **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 28th day of September, 2016

\s _____
Brian C. Schneider
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 September 28, 2016.

Dane Cty. Dept. of Human Services
Bureau of Long-Term Support
Division of Health Care Access and Accountability