



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: MDD - 207161

PRELIMINARY RECITALS

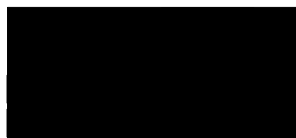
Pursuant to a petition filed on December 15, 2022, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services regarding Medical Assistance (MA), a hearing was held on February 15, 2023, by telephone.

The issue for determination is whether Petitioner meets the legal standard for disability required to establish Medicaid eligibility.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 31-year-old resident of Milwaukee County.

2. Petitioner's diagnoses include neurofibromatosis, pseudoarthrosis, and [REDACTED]. Petitioner also has a documented history of repeated patellar dislocations.
3. Petitioner is presently employed by [REDACTED], and has worked there for the last 6.5 years. He presently works 8-hour days.
4. Petitioner is seeking a disability determination in order to pursue Medicaid Purchase Plan (MAPP) enrollment.
5. Petitioner requested a disability determination on November 17, 2021. Following an initial denial, the petitioner requested a reconsideration review; the respondent confirmed the denial on or about December 7, 2022.

DISCUSSION

Petitioner seeks medical assistance based upon a disability. To be found disabled, he must meet the Supplemental Security Income (SSI) definition of disability. Wis. Stat. § 49.47(4)(a)4. The applicable SSI disability standards are found in the Code of Federal Regulations, Title 20, Part 416, Subpart I, and by reference Appendices 1 and 2, Subpart P, Part 404.

The law defines disability for Medicaid as: "The inability to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment(s) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months." See [SECTION 39.4.7 SSI REFERENCE VALUES](#) for the current SGA limits. *One exception to this is that a MAPP disability determination does not involve the SGA test. See [SECTION 26.1 MEDICAID PURCHASE PLAN INTRODUCTION](#) for the MAPP disability definition.*

Medicaid Eligibility Handbook § 5.2.1 (emphasis added). Based upon this guidance, the petitioner's circumstances must be evaluated according to the following test:

1. An individual who does not have a "severe impairment" will not be found to be disabled.
2. If an individual is suffering from a severe impairment which meets the duration requirement and meets or equals a listed impairment in Appendix I, subpart P of part 404 of the federal regulations, a finding of disabled will be made without consideration of vocational factors (age, education, and work experience.)
3. If an individual is capable of performing work he or she has done in the past, a finding of not disabled must be made.
4. If an individual's impairment is so severe as to preclude the performance of past work, other factors, including age, education, past work experience and residual functional capacity must be considered to determine if the individual can adjust to types of work the individual has not performed in the past.

20 C.F.R. § 416.920.

An application of the sequential disability evaluation process appears below.

Step 1: Petitioner is engaged in substantial gainful activity, but is pursuing a disability determination for purposes of MAPP eligibility. As such, this step is skipped.

Step 2: It is undisputed that Petitioner's combination of impairments is severe.

Step 3: It is undisputed that Petitioner's conditions meet or equal a listed impairment (1.20 Amputation due to any cause).

Step 4: The respondent determined that information regarding performance of past work is not material because all potentially applicable Medical-Vocational Guidelines would direct a finding of "not disabled" given the individual's age, education, and residual functional capacity (RFC). Therefore, the individual can adjust to other work.

Step 5: As the respondent has determined that petitioner can continue to perform past work, the DDB concluded that Petitioner retains the abilities to perform sedentary work. The agency cited "Rule 201.27" of the Medical-Vocational Guidelines (also referred to as the residual functional capacity "grids") as a framework for making this determination.

Generally, an analysis at step 5 includes the application of the Social Security "grids" and through the use of a tool known as the "Physical Residual Physical Functional Capacity Assessment" completed by a physician Medical Consultant. The "grid" is a table that assists in the disability determination process by taking into account an applicant's age, education, past work experience, and the extent to which he maintains the ability to perform work activities despite any exertional impairments. See 20 C.F.R. Ch. III, Part 404, Subpt. P, App.2.

A person who is age 18 – 49, who has a high school degree or more, who has a history of unskilled or skilled work, and who maintains the ability to perform sedentary, light, or medium work is directed by the grids to be found "not disabled". See, 20 C.F.R. Ch. III, Part 404, Subpt. P, App.2, at Rule 201.27. Sedentary work includes jobs that require lifting no more than 10 pounds at a time and occasional walking and standing. See 20 C.F.R. §404.1567.

Petitioner is 31 years old, has a high school education, two years of post-secondary school education, and a history of skilled work. The Physical Residual Physical Functional Capacity Assessments completed by the respondent indicates that Petitioner was determined to have a sedentary RFC. In this case, I find that Petitioner is capable of performing the physical demands of sedentary work. And, as Petitioner's impairments resulted in only exertional limitations, the grids direct a finding of not disabled.

CONCLUSIONS OF LAW

The petitioner does not meet the standard for disability required to establish eligibility for Medical Assistance-Disability.

THEREFORE, it is

ORDERED

That petitioner's appeal 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, 4822 Madison Yards Way, 5th Floor North, 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

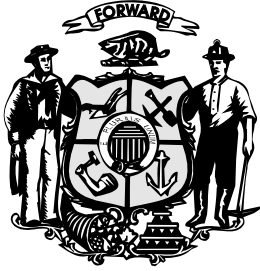
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 27th day of March, 2023



\s _____
Peter McCombs
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 March 27, 2023.

Milwaukee Enrollment Services
Disability Determination Bureau