

2. Petitioner applied for Medical Assistance on May 2, 2023. On October 4, 2023, she was found to be eligible with a disability onset date of February 1, 2023 at which time she had been diagnosed with laryngeal cancer.
3. On August 24, 2024, the Disability Determination Bureau found that Petitioner's health status had improved and that she was no longer disabled. Petitioner requested a reconsideration of that finding. On January 28, 2025, the DDB upheld its decision that she is no longer disabled and the case was transferred to the Division of Hearings and Appeals to schedule a hearing.
4. Petitioner is a high school graduate and was trained as a certified nursing assistant.
5. Petitioner works at a part time job at a [REDACTED] where she performs basic custodial services. She typically works four hour shifts three times a week.
6. [REDACTED]
[REDACTED]
7. Petitioner's stoma frequently fills with phlegm. When that occurs, she is unable to breathe or talk. She cleans out the stoma 5 – 7 times per day. To clean it out, she must find a mirror and then use a small brush to clean out the stoma. The process takes approximately 15 minutes. In addition, she must put sodium drops in her stoma several times per day to keep it moist.
8. [REDACTED]
[REDACTED]
9. Petitioner is unable to make herself understood when she speaks on the phone.
10. Petitioner is able to stop working as needed to clean her stoma during her four hour shifts at the [REDACTED] and this is something that she must do during every shift.
11. From 1993 – 2021, [REDACTED]
[REDACTED]
[REDACTED].

DISCUSSION

Petitioner seeks medical assistance purchase plan benefits (MAPP). The MAPP program is intended to allow persons with disabilities to work and to receive medical assistance. *Medicaid Eligibility Handbook* (MEH) §26.1. To be eligible for the MAPP program, the applicant must meet financial and non-financial requirements.

To be financially eligible, the applicant must pass both income and asset testes. The applicant's and spouse's combined "net income", as that term is defined by Department policy, cannot exceed 250% of the Federal Poverty Level (FPL). As of February 1, 2025, 250% FPL for a two-member household is \$4,406.25. Wis. Stat. § 49.472(3)(a); (MEH) §26.4.2. To be eligible for the MAPP program without a premium, the applicant's gross income must be no higher than 100% FPL (i.e., \$1,304.17). In determining whether an applicant must pay a premium, only the applicant's income is considered, even if the applicant is married. Wis. Stat. § 49.472(4)(b); MEH § 26.5.1. The applicant's total countable assets must be under \$15,000.

To be non-financially eligible for MAPP, the applicant must be engaged in work activity and must meet the legal standard for disability that is set forth in the federal regulations for the Supplemental Security Income (SSI) program. Wis. Stat. § 49.47(4)(a)4. 20 CFR Part 416, Subpart I. To evaluate whether an applicant meets the SSI definition of disability, the following sequential test is used. A MAPP applicant does not however have to satisfy first step of that test.

1. An individual who is working and engaging in substantial gainful activity will not be found to be disabled regardless of medical findings.
2. An individual who does not have a "severe impairment" will not be found to be disabled.
3. If an individual is suffering from a severe impairment which meets the duration requirement (i.e., is expected to last at least 12 months or end in death) 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.)
4. If an individual is capable of performing work he or she has done in the past, a finding of not disabled must be made.
5. 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.

Steps 1 is not applicable as Petitioner has applied for MAPP. ‘

Step 2: The DDB concluded that Petitioner has a continuing speech disorder which constitutes a severe medically determinable impairment. I concur.

Step 3: The DDB found that Petitioner’s condition no longer meets or equals a listed impairment. Although she was found to be disabled effective October 2023 based on a finding that she met the listing for “Soft tissue cancer of the head and neck”, the DDB conducted a review of her case in 2024 and concluded that her condition had improved. The relevant federal regulation states that an individual diagnosed with a soft tissue cancer such as laryngeal cancer must be found disabled until at least 18 months from the date of diagnosis and that thereafter, the person’s disability status must be re-evaluated. Petitioner is no longer undergoing active cancer treatment and her health is stable. Petitioner did not present sufficiently persuasive evidence to establish that she meets this or any other listed impairment at this time.

Step 4: The DDB bypassed this step of the sequential evaluation process.

Step 5: 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 considering an applicant’s age, education, past work experience, and the extent to which she maintains the ability to perform work activities despite any exertional impairments. See 20 C.F.R. Ch. III, Part 404, Subpt. P, App.2.

Petitioner is nearly ■ years old, has a high school degree, experiences difficulty making herself understood due to speech limitations caused by recent treatment for laryngeal cancer and because other people find it difficult to both listen to and understand her when she uses an ■, and must take frequent breaks throughout her day to clean out a hole in her neck so that she can breathe and speak. Despite all of this, the DDB found that Petitioner retains the ability to perform heavy work and that she is not disabled. The agency cited “Rule 204” of the Medical-Vocational Guidelines (also referred to as the residual functional capacity “grids”) as a framework for making this determination. That rule states:

The residual functional capacity to perform heavy work or very heavy work includes the functional capability for work at the lesser functional levels as well, and represents substantial work capability for jobs in the national economy at all skill and physical demand levels. Individuals who retain the functional capacity to perform heavy work (or very heavy work) ordinarily will not have a severe impairment or will be able to do their past work—either of which would have already provided a basis for a decision of “not disabled”. Environmental restrictions ordinarily would not significantly affect the range of work existing in the national economy for individuals with the physical capability for heavy work (or very heavy work). Thus an impairment which does not preclude heavy work (or very heavy work) would not ordinarily be the primary reason for unemployment, and generally is sufficient for a finding of not disabled, even though age, education, and skill level of prior work experience may be considered adverse.

I disagree. Petitioner demonstrated that she has significant non-exertional limitations caused by her speech impairment and her need to frequently tend to her stoma throughout the day. And, the federal regulations provide that the grids may not be fully applicable where an individual’s impairment is not manifested solely by limitations in meeting the strength requirements of jobs. See 20 C.F.R. Ch. III, Part 404, Subpt. P, App.2, Sec. 200.00(e). That is the case here.

Petitioner spoke credibly regarding the challenges she faces following her cancer treatment and easily persuaded me that those challenges adversely affect her ability to work. In fact, the 12 hour per week job she currently has doing housekeeping at a ■ is employment that she obtained as the result of a member of her ■ recommending her for the job. And, her current employer is able to accommodate her frequent need to clean her stoma. Moreover, her job requires minimal communication. Based on the totality of the evidence in the record, I find that Petitioner’s impairments demonstrate that she continues to be disabled.

As stated above, to be eligible for Medical Assistance, an individual must not only be found disabled but must also meet other non-financial and financial eligibility requirements. Therefore, this decision is not the final word on whether Petitioner maintains eligibility for Medical Assistance Purchase Plan benefits. The case will now be sent to the income maintenance agency to complete the processing of Petitioner’s review and to determine whether she continues to meet all other eligibility criteria.

CONCLUSIONS OF LAW

The petitioner continues to meet the standard for disability required to establish eligibility for Medical Assistance Purchase Plan benefits.

THEREFORE, it is

ORDERED

That the matter be remanded to the Department with instructions to either (1) re-open Petitioner's MAPP case back to the date that it closed, or (2) if additional information is needed to determine whether Petitioner continues to meet other MAPP eligibility criteria, to ensure that the income maintenance agency provides Petitioner with written notice of what she must do to complete the review process. The Department must comply with these instructions within ten calendar days of the date of this decision.

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.

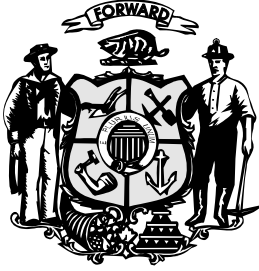
APPEAL TO COURT

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 24th day of April, 2025

\s _____
Teresa A. Perez
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 April 24, 2025.

██████████ Department of Social Services
Division of Health Care Access and Accountability