



FH

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

---

In the Matter of

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

**DECISION**  
Case #: MAP - 217949

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed April 17, 2025, under Wis. Stat., §49.45(5), to review a decision by the Disability Determination Bureau to deny disability for purposes of the Medicaid Purchase Plan (MAPP), a hearing was held on May 7, 2025, by telephone.

The issue for determination is whether petitioner is disabled under MAPP rules.

**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 a 28-year-old resident of Bayfield County.
2. Petitioner formerly was eligible for MA as disabled. He allowed his eligibility to lapse when he failed to complete a renewal.
3. Petitioner reapplied for regular MA and the Medicaid Purchase Plan (MAPP) in September, 2024. Because of the lapse of eligibility, the application was sent for a new disability determination.

4. The DDB determined that petitioner did not meet the MAPP disability standard. Petitioner sought reconsideration, but the DDB affirmed the denial in April, 2025, and sent the file to the Division of Hearings and Appeals for hearing.
5. Petitioner has autism, anxiety disorder, and mild mental retardation with a full-scale IQ of 69/70. He has no physical impairments.
6. Petitioner works in a sheltered situation. He lives alone in an apartment and is able to drive. He is able to do his own activities of daily living. He manages his money with assistance from his family. At work he is able to handle normal production activities, learned and retains his job duties, understands and remembers, and is fine “as long as we give jobs one at a time,” pursuant to the employer report to the disability examiner.
7. The DDB found that petitioner does not meet disability listings and is capable of work in the job market.

### **DISCUSSION**

To be eligible for MA, an adult male under age 65 must be disabled, blind, the caretaker of minor children, or have household income below BadgerCare Plus limits. Wis. Stat., §§49.46(1) and 49.47(4). Due to his income, the only way that petitioner can qualify for MA is to be found disabled. To qualify as disabled, a person must meet the definition of that term as it is used for SSI purposes. 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. Specifically, to be disabled means to be unable to engage in any substantial gainful activity because of a medically determinable physical or mental condition which will, or has, lasted at least twelve months. To determine if this definition is met, the applicant’s current employment status, the severity of his medical condition, and his ability to return to vocationally relevant past work or to adapt to new forms of employment are evaluated in that sequence. 20 C.F.R. §§416.905 and 416.920.

The SSI regulations require a five-step process. First, if the person is working at a job that is considered to be substantial gainful employment, he is found to be not disabled without further review; this step is skipped if the person is applying for the MAPP program, and the DDB did skip it for petitioner’s application. The next step is if the applicant has a “severe impairment.” A severe impairment is one that limits a person’s ability to do basic work activities. 20 C.F.R. §416.921. The DDB found that petitioner has a severe impairment due to autism and anxiety.

The third step is to determine if the impairment meets or equals a listed impairment found at Appendix 1, Subpart P, Part 404. The listings are impairments that are disabling without additional review. 20 C.F.R. §416.925(a). The DDB found that petitioner meets or equals no listing. The listings for anxiety and autism are 12.06 and 12.10. Both require marked limitations in two of four areas: understanding, remembering, and applying information (cognitive); interacting with others (social); concentration, persistence, and pace; and adapting or managing oneself (independent living). The DDB found that petitioner has a mild limitation in cognitive functioning and moderate limitations in social, concentration, and independent living. I cannot disagree with those findings.

A marked limitation means that functioning in an area independently, appropriately, and effectively on a sustained basis is seriously limited. A moderate limitation is that functioning is fair. A mild limitation is

that functioning is slightly limited. Listing 12.0, Part F. Petitioner is reported by his employer to understand and remember instructions. Although petitioner has a history of violent behavior, he has calmed as he has gotten older; thus while still having limitations in social functioning, petitioner cannot be found to have marked limitations. He is able to remain on task at work, and he lives alone with assistance in handling money, meal preparation, and cleaning. None of those findings would rise to a marked limitation.

The fourth and fifth steps occur if the impairments do not meet the listings. The DDB must determine whether the person is able to perform past jobs. If not, then the agency must determine if the person can do any other types of work in the society that would be considered substantial gainful activity. 20 C.F.R. §416.960. The DDB did not look at past work but skipped to the capability of performing other work.

Petitioner does not have physical restrictions, so the DDB focused its review on his mental health status. The DDB experts found that petitioner has at most moderate restrictions in functioning, none of which would impair his ability to work at simple, low-stress jobs. Thus we see a paradox of the MAPP disability process. While Step 1 is skipped, the Step 5 review considers whether the person is capable of carrying out work functions, and a major piece of evidence is that he already is carrying out basic work functions. His employer's report shows that petitioner is able to work at a simple, low-stress job.

There is an independent evaluation in the record from Dr. Desmonde done in December, 2024. Dr. Desmonde noted that petitioner has marked limitations in almost all areas of functioning. Petitioner's mother testified that Dr. Desmonde has evaluated petitioner more than once dating back to the start of his adult disability claims. It appears to me that Dr. Desmonde relied on his history with petitioner to make those conclusions, and clearly the DDB experts did not agree that petitioner has marked limitations. They conclude that petitioner has moderate limitations that would not affect his ability to work in the community. I must give those conclusions due weight, especially since petitioner actually is working in the community.

### **CONCLUSIONS OF LAW**

The DDB correctly determined that petitioner is not disabled for MAPP purposes because he is capable or working in the community.

**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, 4822 Madison Yards Way, 5<sup>th</sup> 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.

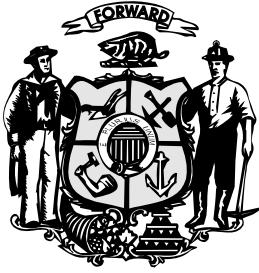
## APPEAL TO COURT

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 13th day of May, 2025

\s \_\_\_\_\_  
Brian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
5<sup>th</sup> Floor North  
4822 Madison Yards Way  
Madison, WI 53705-5400

Telephone: (608) 266-7709  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on May 13, 2025.

Barron County Department of Human Services  
Division of Health Care Access and Accountability