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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: MDD - 219941

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on September 11, 2025, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the La Crosse County Department of Human Services regarding MDD, a hearing was held on October 29, 2025, by telephone conference originating from Madison, Wisconsin. Post-hearing, the record was held open to allow Petitioner to submit additional documents. Petitioner timely complied, and the additional documentation was added to the record.

This hearing was held with companion case no. MAP-219962. A separate decision will be issued under that case number.

The issue for determination is whether Petitioner meets the legal standard required to establish eligibility for the Medical Assistance Purchase Plan (MAPP) or for Elderly, Blind, Disabled Medical Assistance.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
201 E. Washington Ave.  
Madison, WI 53703

By: La Crosse County Department of Human Services  
300 N. 4th Street  
PO Box 4002  
La Crosse, WI 54601

**ADMINISTRATIVE LAW JUDGE:**  
Peter McCombs  
Division of Hearings and Appeals

### **FINDINGS OF FACT**

1. Petitioner is a 44-year-old resident of La Crosse County who filed a Medical Assistance Disability Application on or about October 30, 2024, and was thus screened for eligibility for both Medical Assistance Purchase Plan and SSI-related Medical Assistance benefits.
2. Petitioner's application was evaluated for the following diagnoses: Traumatic Brain Injury, neurocognitive disorders, depressive, Bipolar and related disorders, anxiety and obsessive-compulsive disorders, and neurodevelopmental disorders.
3. Petitioner's medical conditions cause symptoms including seizures, cognitive impairment, short-term memory loss, addiction challenges. A Long Term Care Functional Screen completed in July 2025 noted that Petitioner "requires assistance to safely and successfully complete all six Activities of Daily Living (ADLs) due to physical limitations of left-sided weakness, impaired gait, impaired balance, poor coordination, lack of stamina, trouble swallowing, and peripheral visual field defect in left eye and memory and cognitive impairments of trouble paying attention or staying focused, problems with memory and learning, a decline in reasoning and problem-solving abilities, confusion and difficulties completing tasks and planning ..." Exhibit P-2.
4. Petitioner completed 12 years of education and is not presently employed.
5. By notice dated June 17, 2025, the agency informed the Petitioner that he was not eligible for Medical Assistance (i.e., Medicaid) because he did not meet the applicable standard for disability.
6. By notice dated September 22, 2025, the agency sent notice to the Petitioner informing him that he was not eligible for Medical Assistance Purchase Plan (i.e., MAPP) because he did not meet the applicable standard for disability.
7. The Petitioner subsequently requested reconsideration. The agency denied the reconsideration request on August 16, 2025, and forwarded his file to the Division of Hearings and Appeals for the scheduling of a hearing.

### **DISCUSSION**

The 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.

To be disabled, an individual must, as a threshold matter, establish that s/he is unable to engage in any substantial gainful activity because of a medically determinable physical or mental condition which can be expected to result in death, or which has lasted or can be expected to last for at least twelve months. See 20 C.F.R. § 416.905. In addition, an individual's circumstances must be evaluated according to the following five-part test:

1. A person earning over the threshold for substantial gainful activity (SGA), which was \$1,620 in monthly gross earnings in 2024 for a non-blind individual will generally not qualify as being disabled regardless of their medically disabling conditions. There is one significant exception to this rule. While all other forms of Elderly, Blind, and Disabled (EBD) Medicaid require that an applicant earn under SGA to be found disabled,

the Medicaid Purchase Plan (MAPP) specifically does not. *Medicaid Eligibility Handbook* §§ 26.3.2, 5.10.1.

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 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.

Because the medical assistance and social security standards are the same, if the Social Security Administration finds that a person is not disabled for social security or SSI purposes, that decision is binding on any state agency making a medical assistance disability determination until the Social Security Administration changes its decision. 42 CFR § 435.541(b). However, the Social Security Administration decision is not binding, and the state agency must make a determination if the applicant establishes that any of the following three circumstances apply:

(i) the applicant allege[s] a disabling condition different from, or in addition to, that considered by SSA in making its determination; or

(ii) [The MA application is more than 12 months after the most recent SSA determination]; or

(iii) the applicant alleges less than twelve months after the most recent SSA determination denying disability that his or her condition has changed or deteriorated since that SSA determination, alleges a new period of disability which meets the original durational requirements of the Act, and

(A) Has applied to SSA for reconsideration or reopening of its disability decision and SSA refused to consider the new allegations. . . .

42 CFR 435.541(c)(4)

Here, the Social Security Administration (SSA) denied Petitioner’s application for SSDI benefits on or about June 12, 2025, and upheld that determination upon reconsideration on August 18, 2025. The question that must be addressed therefore is whether the SSA’s denial is binding on the Division of Hearings and Appeals. Petitioner alleged the same medical conditions in both his application for SSDI benefits and his

application for Medical Assistance (MA) benefits, his application for MA benefits was filed shortly after his application for SSDI benefits and as of the date of this decision, fewer than twelve months have passed since SSA upheld its denial upon reconsideration. The first and second of the three exceptions to the general rule that an SSA ruling on disability is binding on the state MA agency set forth above therefore do not apply here.

In order for the Division of Hearings and Appeals to make a disability determination here, the last of the three exceptions set forth above must be demonstrated. That exception requires that: (1) the applicant's disability or condition has deteriorated since the most recent SSA determination; (2) there is sufficient evidence to show a new period of disability that meets the "durational requirements" (i.e., that has lasted or is expected to last at least twelve months or end in death); (3) the applicant request reconsideration or reopening of the disability decision; and (4) the SSA refused to consider the new allegations.

Here, Petitioner offered credible testimony and submitted additional medical records that demonstrate that since SSA's August 2025 denial of his request for reconsideration, his seizure activity has continued, and that he was hospitalized in August 2025 and October 2025 following seizures. I am persuaded that this evidence shows that Petitioner's condition has deteriorated since August 2025 when the SSA rendered its most recent decision.

Although Petitioner submitted updated medical records for my consideration which corroborated his representatives' hearing testimony that his health continues to decline and that he could not engage in substantial gainful activity at present, that evidence did not include an updated residual functional capacity assessment completed by a treating physician or other health care provider and did not include any type of detailed medical opinion from a treating physician or other health care provider as to whether Petitioner's conditions are expected to continue restricting his ability to engage in SGA for at least twelve months. (I note that I offer no opinion regarding whether the evidence prior to August 2025 because SSA considered but denied Petitioner's request for reconsideration at that time and I do not have authority to reverse SSA's finding.) There is thus not sufficient evidence in this record to demonstrate that the durational requirement set forth in See 20 C.F.R. § 416.905 is met.

In summary, I find that I am bound by SSA's determination that Petitioner was not disabled through August 2025, when it considered and declined Petitioner's request for reconsideration. Moreover, there is insufficient evidence in this record to establish that Petitioner's conditions, as of August 2025, have lasted or can be expected to last for at least twelve months or to result in death.

### **CONCLUSIONS OF LAW**

There is insufficient evidence to demonstrate that Petitioner meets the legal standard for disability required to establish Medicaid eligibility.

**THEREFORE, it is**

**ORDERED**

That Petitioner's appeal 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, 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.

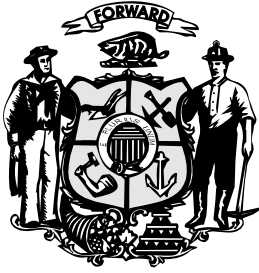
## **APPEAL TO COURT**

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, 201 E. Washington Ave., **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 10th day of December, 2025

\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 December 10, 2025.

La Crosse County Department of Human Services  
Disability Determination Bureau