



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

ENE/145392

PRELIMINARY RECITALS

Pursuant to a petition filed November 19, 2012, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Rusk County Department of Social Services in regard to Energy Assistance, a hearing was held on December 18, 2012, at Ladysmith, Wisconsin.

The issue for determination is whether the agency correctly denied the petitioner's request for emergency furnace repairs.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Administration
101 East Wilson Street
Madison, Wisconsin 53703

By: George Voldberg, Energy Services Worker
Rusk County Department of Social Services
Courthouse
311 Miner Avenue East, Suite C240
Ladysmith, WI 54848

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner is a resident of Rusk County.
2. Indianhead Community Action Agency, Inc., acting on behalf of the county agency, denied the petitioner's request for emergency furnace repairs sometime in October or November 2012.

3. The petitioner has resources to pay to have her furnace repaired.

DISCUSSION

Energy Assistance is a state-run program established by federal law. *See* 42 USC § 8621, et seq. and Wis. Stat. § 16.385. Rules for the program must follow Wisconsin statutes, but where the statutes are silent the Department of Administration may set policies. Wisconsin's program provides for emergency furnace repairs, but there is no entitlement to these services. *HE+ Furnace Manual*, p.5. As a result, the agency can deny repairs for any number of reasons, including the household's having "adequate resources (or assets) to deal with the furnace failure," the worker's safety is threatened by the "maintenance of the dwelling," or "other reasons specific to the dwelling or household."

The agency denied the petitioner's request because it contends that the nature of the damage indicates that she did not properly maintain the furnace by changing its filter often enough, sewage water in the basement threatened the health of anyone repairing the furnace, and she had hundreds of salvaged cars on her property that she could turn into cash to pay for the furnace. The petitioner denies the first two allegations. Although the agency submitted evidence of these problems, for the purpose of this hearing I will assume that they do not exist. This still leaves unchallenged the allegation that the petitioner has other resources available to pay for the repair. Regardless of whether she adequately cares for her furnace or has a basement that one can safely walk through, the availability of resources to pay for the repair is a sufficient reason to deny the request.

CONCLUSIONS OF LAW

The petitioner is not entitled to repair of her furnace through the Energy Assistance program.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Administration. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 101 East Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,
Wisconsin, this 27th day of December, 2012

\sMichael D. O'Brien
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 27, 2012.

Rusk County Department of Social Services
DOA - Energy Assistance