



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

ENE/145991

PRELIMINARY RECITALS

Pursuant to a petition filed December 13, 2012, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Green County Department of Human Services in regard to Energy Assistance (EA), a hearing was held on January 24, 2013, by telephone.

The issue for determination is whether the agency correctly denied the petitioner's EA applications due to lack of income verification.

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: Jeanie Blumer, ES Supr.

Green County Department of Human Services
N3152 State Road 81
Monroe, WI 53566

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Green County.
2. The petitioner applied for Energy Assistance on October 11, 2012. No income verification from 2011 was supplied, so the agency requested current verification within 30 days. None was

received. The agency issued written notice of denial on November 14, 2012. The basis for denial was failure to supply requested verification of financial information.

3. The petitioner again applied for Energy Assistance on December 7, 2012. No income verification from 2011 was supplied, so the agency requested currently verification within 30 days. The 2011 income tax return was identified as the preferred verification source, due to the presence of self-employment income for the household. The verification was not received. The agency issued written notice of denial in January 2013, with the denial being due to lack of income verification.
4. The petitioner, a household of two, apparently received Social Security benefits and self-employment income from the sale of cattle in 2011. The amount of that income is unknown in this hearing record.
5. The petitioner testified that her 2011 income tax return has not been completed. She blames the delay on her poor health. She underwent hip surgery in early November 2012, was in a nursing home for two weeks, and then stayed at her daughter's home in ██████ Wisconsin until mid-December 2012. This does not explain why the petitioner did not file a 2011 tax return prior to November 2012, or in January 2013.

DISCUSSION

The agency denied the petitioner's application for failure to verify the applicant's investment income. Obviously, the Energy Assistance program has income limits for its recipients. To assure that an applicant is income eligible, program policy requires that the applicant's income be verified as part of the application process. *Wisconsin Home Energy Assistance Program, Program and Operations Manual (WHEAP POM)*, §§ 2.3.4, 2.3.4.1, 3.1.9, 3.3.2.5, (July, 2011), at <http://homeenergyplus.wi.gov/refcenter.asp>. When verification is not provided within 30 days of the application date, the county agency is required to deny the application. The applicant may reapply at a later date if the program is still open to new applicants (e.g., the program has not run out of money).

The burden of establishing eligibility for public assistance rests with the welfare applicant. *Lavine v. Milne*, 424 U.S. 577 (1976). The petitioner did not meet her burden here. The denials were correct. If the petitioner completes her 2011 or 2012 tax return before the application period expires, she is free to file a new EA application.

CONCLUSIONS OF LAW

1. The agency correctly denied the petitioner's EA applications from October and December 2012, due to failure to verify income.

THEREFORE, it is

ORDERED

That the petition 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 25th day of January, 2013

\sNancy J. Gagnon
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 January 25, 2013.

Green County Department of Human Services
DOA - Energy Assistance