



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

In the Matter of

[REDACTED]

DECISION

ENE/146192

PRELIMINARY RECITALS

Pursuant to a petition filed December 24, 2012, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Door County Department of Social Services in regard to Energy Assistance, a hearing was held on January 30, 2013, at Sturgeon Bay, Wisconsin.

The issue for determination is whether the Department erred in its termination of benefits due to petitioner failure to submit the requested verification of income.

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: Gina Wautier, Energy Services Worker
Door County Department of Social Services
Door County Government Center
421 Nebraska Street
Sturgeon Bay, WI 54235-0670

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Door County.

2. Petitioner submitted a paper application for energy assistance in October 2012. During the prior twelve months, petitioner grew vegetables and sold them at farmer's markets for payment.
3. Petitioner listed zero in income.
4. The agency representative called petitioner to inquire of any income. Petitioner informed the agency representative that his only income came from selling vegetables and some personal items.
5. Petitioner was enrolled in the program and received benefits.
6. In November, the agency reviewed the application and determined that it needed verification of the income as it was deemed to be income from self-employment rather than zero income.
7. The agency sent a letter by e-mail to petitioner asking for him to complete self-employment income report forms for his income. The representative attached to the e-mail a blank form for petitioner to use.
8. Petitioner received the e-mail.
9. Petitioner responded by sending the agency representative an e-mail (see Exhibit #4) which listed various complaints about the agency's request for income verification.
10. Petitioner did not submit the requested income verification.
11. The agency has asked petitioner to re-apply for benefits with the income information they need. Petitioner has refused to do so.

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. Eligibility depends upon a household's income not exceeding 60% of the state average. *Wisconsin Home Energy Assistance Program, Program and Operations Manual*. pp.1-3 and 2-12. (Found online at <http://homeenergyplus.wi.gov/docview.asp?docid=22169>.) Unless the applicant is a seasonal worker, financial eligibility is based upon the household's gross income during the three months before the application date. *Id.*, pp. 2-13 and 2-16. Applicants must verify the income of everyone in the household for those three months. *Id.*, p.3.19. If self-employed, applicants must provide 12 months of income verification. *See* p. 2-16. In addition, applicants must verify other essential information. *Id.* p.3.6. If an applicant fails to complete an application within 30 days, the agency must deny it and the applicant must reapply. *Id.*, p.3.3.

Petitioner concedes that he received the request for the income verification. He also concedes that he never attempted to verify his income or send back the form because he disputes that it is self-employment income. His argument is that his selling of vegetables that he grows at farmer's markets results in such a limited income that it should not be considered self-employment. This argument is not persuasive. Petitioner grew vegetables and sold them at a farmer's market. He earned money from the sale. It does not matter how much it was. Income must be reported by one seeking to get public benefits. The *Manual* designates self-employment income as that including farm income. Growing vegetables and selling those vegetables for money seems to me to be farm income. The *Manual* at section 2.3.5 does not include a requirement that the income

be from an incorporated entity or that it reach a minimum amount in a given year. Income from farming is self-employment income. Petitioner would prefer the agency to simply pretend that it does not exist because he made only a limited amount. But, petitioner cannot provide a source for such a rule.

Petitioner also argues that he does not remember how much he made and any representation would be false. But, this is not the fault of the agency. If petitioner seeks public benefits then he cannot be expected to be excused from the rules of the program. In this case, he did not even attempt to provide any verification.

Based on this, I find that the county agency correctly terminated petitioner's benefits due to his failure to provide any verification of income.

CONCLUSIONS OF LAW

The county agency correctly terminated benefits because he failed to provide the requested verification of income.

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 5th day of
February, 2013

\sJohn P. Tedesco
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 February 5, 2013.

Door County Department of Social Services
DOA - Energy Assistance