



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION ON REHEARING

ENE/147897

PRELIMINARY RECITALS

Pursuant to a petition filed March 5, 2013, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Brown County Human Services in regard to Energy Assistance (Wisconsin Home Energy Assistance Program or WHEAP or EA), a hearing was held on May 29, 2013, at Green Bay, Wisconsin. (A hearing was previously scheduled, the petitioner did not appear, and the appeal was dismissed. The petitioner requested rehearing, which was granted, and the May 29 hearing resulted.)

The issue for determination is whether the agency correctly denied the petitioner's EA application due to lack of an "energy burden."

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

Mr. [REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Administration
101 East Wilson Street
Madison, Wisconsin 53703

By: Ashley Johnson, ES Spec.
Brown County Human Services
Economic Support-2nd Floor
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.

2. The petitioner applied for Energy Assistance on October 14, 2010. The state agency issued written notice of denial of EA on February 24, 2013.
3. The petitioner had a household of one person and has been living at a friend's residence from July 2012 to the present. On February 8, 2013, the agency asked the petitioner to submit proof that he is incurring an energy expense. That proof was due by February 23, 2013. The petitioner submitted a 2010 bill, and the agency confirmed that the petitioner does not have an active utility account in his name.

DISCUSSION

For Energy Assistance purposes, the agency must consider all gross income received in the three months preceding application. *Wisconsin Home Energy Assistance Program, Program and Operations Manual (WHEAP POM)*, §2.2.2 (July, 20109), at <http://homeenergyplus.wi.gov/refcenter.asp>. No deductions are allowed unless specifically exempted. *Id.* If gross income is above the income limit, the household cannot qualify for Energy Assistance. There is no assertion that the petitioner's income was over that amount, so he did *financially* qualify for a benefit payment.

Rather, the agency denied the petitioner's application due to a *nonfinancial* criterion – lack of an “energy burden.” The petitioner has provided no evidence that he has a current “energy burden.” That requirement is described in *WHEAP POM* (FY 2012) as follows:

2.2.5 Energy Burden

To be eligible for energy assistance, the household must have a heat/electric burden on the date of the application. The economic unit must be responsible for providing current home heat and/or electricity, and have active account(s). (See Chapter 10, Definition of Terms). The Energy Burden Table (see Section 2.2.5.2 below), provides examples of situations and determinations of energy burden.

Responsibility for energy, heat and/or electricity, in the household can be demonstrated in a number of ways including, but not limited to:

- 1) Having an account with the energy supplier and directly paying the bills.
- 2) Having the cost of the energy (heat and/or electricity) included in the rent. ...

There is a state plan that is approved by the federal government as a condition of funds disbursement. I have reviewed the state plan and can find nothing that is contrary to the policy handbook provision. Thus, I will uphold this denial. The Wisconsin state plan is available at <http://homeenergyplus.wi.gov/docview.asp?docid=17075>.

CONCLUSIONS OF LAW

The agency correctly denied the petitioner's January, 2013, EA application due to nonfinancial ineligibility.

THEREFORE, it is

ORDERED

That the petition is dismissed.

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 30th day of May, 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 May 30, 2013.

Brown County Human Services
DOA - Energy Assistance