



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

██████████
██████████
████████████████████
████████████████████

DECISION

ENE/148253

PRELIMINARY RECITALS

Pursuant to a petition filed March 25, 2013, under Wis. Admin. Code, §HA 3.03(4), to review a decision by Milwaukee Energy Services to deny Energy Assistance (EA), a hearing was held on April 24, 2013, by telephone.

The issue for determination is whether petitioner was ineligible for EA because he did not include all of his household members on the application.

PARTIES IN INTEREST:

Petitioner:

██████████
██████████
████████████████████
████████████████████

Respondent:

Department of Administration
101 East Wilson Street
Madison, Wisconsin 53703

By: Valerie Jenkins, Energy Services Worker
Milwaukee County Dept. of Human Services
1220 W. Vliet Street
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. Petitioner applied for EA on March 19, 2013. He reported that he lived in a rooming house.
3. The agency checked into the residential situation. The landlord reported that petitioner rented a room in a private residence with common living areas. The worker then told petitioner that the residence was not a rooming house, and that EA policy required all residents of the home to be included in the application.

4. When petitioner did not provide the names of the other residents, the application was denied as being incomplete.

DISCUSSION

EA is mandated by Wis. Stat. §16.385. The Department of Administration administers the program. §16.385(2)(a). The Department does so by publishing the Wisconsin Energy Assistance Program Operations Manual, which is found on the internet at homeenergyplus.wi.gov/docview.asp?docid=22169. The Manual must follow the mandate of the statute, but it is up to the Department to specify policies where the statute is silent.

The Manual, §2.2.2.2, provides as follows:

A roomer is a person who rents a sleeping room from the building owner. A roomer does not have a separate site address from other occupants of the building. A roomer does not share in providing, or being provided for, the necessities of life with other residents of the structure. A roomer is a person who has proof of a permanent address, but occupies a single room within the rooming house. A roomer in a single-family structure must verify he or she is not part of the economic unit of the other tenants of the structure. Roomers are not precluded from WHEAP benefits.

Persons living in a housing arrangement with their own room and sharing common spaces (such as kitchens, living rooms, TV rooms, recreation rooms) are not roomers. Persons sharing common spaces are part of a household with other members and eligibility must be assessed for the whole group, an economic unit.

Petitioner fit into the second paragraph. He lived in a room but shared common spaces. Thus he could not be a separate unit for EA purposes.

I note that petitioner lives at a different address now. He should file a new EA application at that address by May 15, 2013.

CONCLUSIONS OF LAW

The agency correctly denied EA because petitioner did not meet the definition of a “roomer” and he did not include other household members on his application.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 April, 2013

\sBrian C. Schneider
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 April 25, 2013.

Energy - Milwaukee County
DOA - Energy Assistance