



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

ENE/150436

PRELIMINARY RECITALS

Pursuant to a petition filed July 03, 2013, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Energy - Milwaukee County in regard to Energy Assistance, a hearing was held on October 08, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether an energy assistance application was filed on behalf of Petitioner with the Wisconsin Home Energy Assistance Program (WHEAP).

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Administration
101 East Wilson Street
Madison, Wisconsin 53703

By: Luella Ellis, Energy Services Worker
Energy - Milwaukee County
Milwaukee, WI

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. Petitioner's father filed an application for WHEAP benefits for Petitioner and her brother on May 13, 2013.
3. Petitioner's father did not have Petitioner's Social Security number and/or card with him on May 13, 2013.

4. On June 6, 2013 Petitioner's father appeared at the agency offices to complete the application process. An application had been opened and pended for the brother but not Petitioner. At that point Petitioner's father was told that it was too late to apply for WHEAP for Petitioner.

DISCUSSION

The application deadline for Wisconsin Home Energy Assistance program benefits is May 15. *See, e.g., WHEAP Program and Operations Manual, §3.1.4.* Once an application is submitted the applicant has 30 days to submit proof of Social Security number. *Id., § 2.2.3.*

This case is really a factual issue – was an application submitted on May 13, 2013 for Petitioner or not.

Petitioner was represented at the hearing by her father. He has applied for WHEAP benefits for his children in the past. He was credible and testified that he did submit application materials for Petitioner on May 13, 2013. That he was at the agency on that day is apparent by the processed application for the other child. It does not make sense to think he would not have applied for both. The lack of a Social Security number should not matter as there should have been 30 days to submit it.

CONCLUSIONS OF LAW

That an application for WHEAP was filed on behalf of Petitioner on May 13, 2013.

THEREFORE, it is

ORDERED

That this matter is remanded to the WHEAP with instructions to process a WHEAP application for Petitioner dated May 13, 2013. If the agency needs additional information to do so it must request that in writing within 10 days of this decision. Petitioner shall have 10 days to submit the requested information and then the agency shall have 10 days to make a determination as to eligibility and, if eligible, to issue benefits. The agency should correspond with Petitioner's father for this.

If information is requested in writing and not provided, this 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 Milwaukee,
Wisconsin, this 6th day of November, 2013

\sDavid D. Fleming
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 November 6, 2013.

Energy - Milwaukee County
DOA - Energy Assistance