



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

ENE/152223

PRELIMINARY RECITALS

Pursuant to a petition filed September 18, 2013, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Social Development Commission, acting on behalf of Milwaukee County, in regard to Energy Assistance, a hearing was held on October 10, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Social Development Commission (the agency) correctly denied Petitioner's May 15, 2013 application for Energy Assistance.

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: Vanessa Burkette, Lead Processing Specialist, Energy Services Worker
Social Development Commission for Milwaukee County
4041 N. Richards St.
Milwaukee, WI 53212

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. Petitioner filed an application for Energy Assistance on May 15, 2013, but did not complete it, because she did not have documentation of her unemployment income. (Testimony of Ms. Burkette; Testimony of Petitioner; Exhibit 5)

3. On May 15, 2013, the agency gave Petitioner a letter indicating that she needed to provide additional information to complete her application by June 14, 2013. (Testimony of Ms. Burkette; Testimony of Petitioner)
4. Petitioner was overwhelmed by a situation with some neighbors who had been tampering with her mail and did not provide verification of her unemployment income by June 14, 2013. (Testimony of Petitioner; Exhibit 2)
5. On June 19, 2013, the agency sent Petitioner a notice indicating that her application was denied because her application was not completed within 31 days. (Exhibit 3)
6. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on September 18, 2013. (Exhibit 1)

DISCUSSION

A hearing officer can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action concerning energy assistance must be filed within 45 days of the date of that action. *Wisconsin Home Energy Assistant Program Manual (WHEAP Manual) §1.8.2* Petitioner filed her request for fair hearing on September 18, 2013, 91 days after the June 19, 2013 date of action. However, Petitioner testified credibly that she was having issues with her neighbors stealing or tampering with her mail and that she did not receive the denial letter in a timely manner. Petitioner's testimony is corroborated by Exhibit 2, a letter from a postal worker. Consequently, Petitioner's appeal is considered timely.

Having reviewed the record, I find that the agency acted correctly. Applications must be processed in 30 days. *WHEAP Manual §3.1.9 – Application Processing*. If an applicant is asked for verification and the documentation is not returned within 30 days, the system will deny the application as incomplete and the applicant will have to reapply. *WHEAP Manual §3.2.5*

It is undisputed that Petitioner went to the Social Development Commission on May 15, 2013 and completed an application. It is also undisputed that on that same date, a worker at the Social Development Commission gave Petitioner a letter reminding her that she needed to provide proof of her income by June 14, 2013. It is undisputed that Petitioner did not provide the requested income verification by June 14, 2013. Because Petitioner's application was not complete and processed within 30 days, due to the missing verification of unemployment income, the agency correctly denied her application for benefits on June 19, 2013.

CONCLUSIONS OF LAW

The agency correctly denied Petitioner's May 15, 2013 application for benefits.

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 Milwaukee,
Wisconsin, this 25th day of November, 2013.

\sMayumi M. Ishii
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 25, 2013.

Energy - Milwaukee County
DOA - Energy Assistance