



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION

ENE/153766

PRELIMINARY RECITALS

Pursuant to a petition filed November 26, 2013, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Dane County Department of Human Services in regard to Energy Assistance, a hearing was held on February 03, 2014, at Madison, Wisconsin.

The issue for determination is whether the Department erred in its denial of energy assistance.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

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

Respondent:

Department of Administration
101 East Wilson Street
Madison, Wisconsin 53703

By: No Appearance, Energy Services Worker
Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Dane County.
2. Petitioner applied for energy assistance in application # ██████ filed on October 8, 2013.
3. On November 13, 2013, WHEAP sent a letter to petitioner informing her that her WHEAP application had been denied due to "the application date has exceeded 31 days."

4. Petitioner filed a timely appeal.
5. The agency did not appear for hearing and did not contact this ALJ prior to hearing to provide a telephone contact number.

DISCUSSION

It is impossible for me to tell based on the record before me the reason the Department denied energy assistance in this case. I could assume that the notice indicates that petitioner failed to complete an application within a 31 day time limit. Or, possibly, the agency requested verification that was not sent. But, it is not ideal, nor is it sustainable on circuit court review, if I assume, presume, or take even educated guesses. I do not know why the agency failed to appear or even send in some documentation with a letter of explanation. I similarly cannot find in favor of petitioner because of lack a sufficient record to determine that she is indeed eligible for the program. So, the agency can try again.

CONCLUSIONS OF LAW

The agency failed to establish why petitioner was denied WHEAP benefits.

THEREFORE, it is

ORDERED

That this matter is remanded to the Department and its county agent with instructions to thoroughly and fully reprocess the application for WHEAP benefits including issuing all appropriate requests for additional information from petitioner and providing all appropriate assistance to petitioner in gaining a response to any requests. The decision of the agency shall be issued in writing. If denied, petitioner shall be informed of her new appeal rights. These actions shall be completed within 10 days of this decision.

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 12th day of March, 2014

\sJohn P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 12, 2014.

Dane County Department of Human Services
DOA - Energy Assistance