



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

ENE/155224

PRELIMINARY RECITALS

Pursuant to a petition filed January 30, 2014, 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 March 13, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's Wisconsin Home Energy Assistance Program (WHEAP) benefit has been correctly calculated.

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: No appearance

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 applied for Wisconsin Home Energy Assistance Program (WHEAP) benefits on January 23, 2014.

3. The application noted household membership to be 5 and that the house is a single family home with 6 rooms. It notes that the primary fuel is natural gas and that Petitioner does also have an electric bill.
4. The application reported income in each of the three months prior to the month of application in the amount of \$1433.89 for Petitioner and \$79.91 for his spouse.
5. Petitioner's application was approved and benefits in the total amount of \$383.00 were paid; \$292 for heat and \$91 for electric.
6. Petitioner has applied for WHEAP benefits in the past and has been awarded the following total benefits: 2005 - \$670.00; 2006 - \$834.00 and 2008 - \$615.00.

DISCUSSION

WHEAP 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 Home Energy Assistance Program, Program and Operations Manual (Manual)*. 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 Wisconsin Home Energy Assistance Program (WHEAP) is an umbrella term covering two different though similar programs, one funded by the federal government (Low Income Home Energy Assistance Program - LIHEAP) and one funded from fees collected through the electric utilities (Public Benefits program - PB). *See Manual, §1.1.*

Petitioner requested this hearing to find out how the WHEAP benefit for 2014 was calculated as he had fewer people in the household in the past with a similar income and received a larger benefit. There is not a precise answer to his question as the formula is complex; digitalized via an Excel spreadsheet formula and has a number of variables.

The Statutes state:

(6) BENEFITS. Within the limits of federal funds allocated under sub. (3) and subject to the requirements of sub. (4) (b) and s. 16.54 (2) (b), heating assistance shall be paid under this section according to a benefit schedule established by the department based on household income, family size and energy costs.

Wis. Stats, §16.27.

Further, the Manual provides some guidance as to some of the factors included in the calculation:

Regular Benefits provide assistance with the home energy bills and are not intended to cover the total costs of heat or electricity. Regular Benefits may only be applied to the current heating season or program year. Some of the factors affecting the amount (size) of the heat benefit include:

- Total funding available for Regular benefits in the state;
- The income (reference Chapter 2) level of the household;
- Type of fuel;
- The size (number of rooms) of the dwelling unit;
- The fuel costs of the household; and
- The type of dwelling unit.

Regular electric (PB) benefits are only available to households serviced by a utility that is participating in the State Public Benefits Program. Some of the factors affecting the amount (size) of the electric benefit include:

- Total funding available for Regular benefits in the state;
- The income level of the household; and
- The electric (non-heating) fuel costs of the household.

Manual, §1.1.1.



1.3 WHEAP – Regular Benefits Payment Determination

Home Energy Assistance Heat Benefits are primarily based on the relationship of household income to the state median income (smi), size of the dwelling (number of rooms), dwelling type, and home energy costs. The primary factors affecting the regular electric (non-heating) benefit are the household income and the non-heating electric use.

<http://homeenergyplus.wi.gov>

I also note that, per the WHEAP website, the Federal funds for 2014 were \$8-10 million less in 2014 than in 2012 and 2013. See *<https://wheap.doa.state.wi.us/reports>*.

While the calculation of the benefit is computerized and not reproducible here, so long as the inputs are accurate the calculation is consistent statewide. The inputs here are accurate based on the record available; i.e., household size, income, # of rooms and primary fuel type. The fuel costs are not in the record but were either supplied by Petitioner or came directly from the utility. See *Manual, §3.4.29.5*. Based on all of this I have no basis to find the calculation to be in error.

CONCLUSIONS OF LAW

That the available evidence is not sufficient to demonstrate an error in the determination of Petitioner's 2014 WHEAP benefit.

THEREFORE, it is

ORDERED

That 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 29th day of May, 2014

\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 May 29, 2014.

Energy - Milwaukee County
DOA - Energy Assistance