



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

ENE/155259

PRELIMINARY RECITALS

Pursuant to a petition filed February 03, 2014, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Eau Claire County Department of Human Services in regard to Energy Assistance, a hearing was held on March 19, 2014, at Eau Claire, Wisconsin.

The issue for determination is whether the petitioner can receive energy assistance for the 2012-13 heating system.

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: Pat Perkins, Energy Services Worker
Eau Claire County Department of Human Services
721 Oxford Avenue
PO Box 840
Eau Claire, WI 54702-0840

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner is a resident of Eau Claire County.
2. The petitioner recently requested Energy Assistance for the 2012-13 heating system. The agency denied his request because it came after the 2012-13 heating season.

DISCUSSION

Energy Assistance is a state-run program established by federal law. *See* 42 USC § 8621, et seq. and Wis. Stat. § 16.385. Rules for the program must follow Wisconsin statutes, but where the statutes are silent the Department of Administration may set policies. The petitioner had received benefits from the program for several years. During much of this period, the agency automatically renewed his application. Recently he discovered that it did not do so for the 2012-13 heating season; he did not notice this earlier because the payment is made directly to his utility and his utility bill varies. He now seeks last year's benefit.

While I sympathize with the petitioner, I have no authority to provide his request. Administrative law judges have only those powers expressly granted by law. They have no equitable powers that would let them consider the fairness of the situation. No law or rule requires the agency to automatically renew the applications of part recipients. This means that if the agency did not renew the petitioner's application, it was up to him to do so in a timely manner. Wisconsin Energy Assistance rules state that for "an application to be considered for regular heat/electric benefits, it must be initiated before the end of the heating season." *Wisconsin Home Energy Assistance Program, Program and Operations Manual*. (Found online at <http://homeenergyplus.wi.gov/docview.asp?docid=22169>.) p. 2-1. The heating season is from October 1 through May 15. *Id.* p. 1-2. This means that any request for benefits during the 2012-13 heating season must have been submitted by May 15, 2013. Because the petitioner's request came after this, it cannot be considered.

CONCLUSIONS OF LAW

The Energy Assistance program cannot provide benefits for the 2012-13 heating season for someone who applied for benefits after May 15, 2013.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Administration, 101 East Wilson Street, Madison, Wisconsin 53703, **and** on those identified in this

decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 4th day of April, 2014

\sMichael D. O'Brien
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 4, 2014.

Eau Claire County Department of Human Services
DOA - Energy Assistance