



**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

██████████ ██████████  
c/o ██████████ ██████████  
████████████████████████████████████████  
████████████████████████████████████████

DECISION

ENE/155271

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 03, 2014, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Green Lake County Department of Human Services in regard to Energy Assistance, a hearing was held on March 31, 2014, at Green Lake, Wisconsin.

The issue for determination is

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

██████████ ██████████  
c/o ██████████ ██████████  
████████████████████████████████████████  
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Respondent:

Department of Administration  
101 East Wilson Street  
Madison, Wisconsin 53703

By: Shelby Jensen, Energy Services Worker  
Green Lake County Department of Human Services  
Human Services Ctr  
571 County Road A  
Green Lake, WI 54941

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Green Lake County.
2. Petitioner applied for energy assistance.

3. Petitioner lives in a camper.
4. Petitioner’s application was denied.
5. Petitioner appealed.

**DISCUSSION**

For Energy Assistance purposes, the agency must consider the eligibility factors as they exist on the date of application. *Wisconsin Home Energy Assistance Program, Program and Operations Manual* (WHEAP POM), Chapter 2, page 2.0 (December, 2009), online above under “Grantee Information.” To be non-financially eligible on the date of application, a person must live in a “dwelling unit” that in turn creates an “energy burden.” *Id.*, Ch. 10, definitions of “dwelling unit,” “home energy” and “energy burden.”

The policy manual declares that a person cannot receive Energy Assistance unless she has an “energy burden.” The energy burden is the “responsibility for providing *home energy* including home heating and home electricity.” *Home energy* is defined as “all fuel sources used in a *dwelling unit*.” A *dwelling unit* is defined in the state policy manual as:

**DWELLING UNIT**

A structure, including a stationary mobile home, apartment, group of rooms, or a single room occupied by a household that has an identifiable site address such as a fire number or street address. A United States Post Office Box number is a mailing address and does not identify a dwelling unit.

*Id.*, Ch. 10. Further guidance in the manual states:

***2.2.2.1 Type of Residence***

Only applicants living in an eligible dwelling are eligible for WHEAP benefits. If a dwelling is not listed in the table below, please contact the Help Desk for assistance in determining the eligibility of a dwelling.

**Dwelling Eligibility Table**

**Eligible Dwellings**

Single Family House  
  
Multi-Unit Building with 2 or more units (e.g. Duplex, Condo, Apartment, Townhouse, Studio Apartment, Flat)  
Mobile Home  
  
Rooming house, motel, hotel, YMCA, or YWCA  
  
Adult Family Home (as licensed by the Wisconsin Department of Health Services)  
Deer Stand  
Abandoned building or space  
Tent

**Ineligible Dwellings**

Secondary home (e.g. vacation home, seasonal home)  
***Vehicle (e.g. RV, camper, car)***  
  
Assisted living facility or nursing home  
Group home, halfway house, Community-Based Residential Facility (CBRF), or foster home  
Government or Institutional facility (e.g. jail, hospital, care institution)

Therefore, under the rules of the program, a camper is not an eligible dwelling unit. Petitioner has conceded on the record that he lives in a camper. His appeal is premised on the argument that it is unfair to exclude a camper but allow a mobile home to be eligible. The rule seems reasonable to me for at least the reason that a

camper heating system is likely less safe than that in a stationary mobile home. It seems reasonable that the program does not wish to encourage people to live in campers, or cars, or other vehicles where unsafe heating options would be utilized. That aside, the argument is one of equity or “fairness.” An administrative law judge does not have powers of equity. I must apply the rules of the program stemming from statutes and the Code and program policy. Campers are not eligible under the rules of the program.

### CONCLUSIONS OF LAW

The agency correctly denied the petitioner’s Energy Assistance application as he lives in a camper which is not a “dwelling unit” for which “home energy” is used.

**THEREFORE, it is**

**ORDERED**

That the petition be 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 5th day of May, 2014

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\sJohn P. Tedesco  
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 5, 2014.

Green Lake County Department of Human Services  
DOA - Energy Assistance