



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

ENE/157856

PRELIMINARY RECITALS

Pursuant to a petition filed May 21, 2014, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Ashland County Department of Human Services in regard to Energy Assistance, a hearing was held on November 12, 2014, at Ashland, Wisconsin.

The issue for determination is whether the county agency correctly denied Energy Assistance to the petitioner because she does not receive fuel from a certified provider.

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

Ashland County Department of Human Services
630 Sanborn Avenue
Ashland, WI 54806

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner is a resident of Ashland County.
2. The petitioner heats her house with propane provided by a dealer who does not participate in the Energy Assistance program.

3. The county agency denied the petitioner's application for Energy Assistance in the 2013-14 heating season because her energy provider did not participate in the program.

DISCUSSION

Energy Assistance is a state-run program established by federal law. It is meant to subsidize the energy costs of those with low income. *See* 42 USC § 8621, et seq. and Wis. Stat. § 16.385. The petitioner's income is within the program's limits, but the county agency denied her benefits in the 2013-14 heating season because her propane provider is not certified by the program. The authority for its action is found in the *WHEAP Program and Operations Manual*, § 3.4.29.3:

If an applicant is using natural gas, oil, or propane but does not have a WHEAP participating vendor, they will not be eligible for a heating benefit unless heat is included in rent, or a separate payment is made to the landlord, mobile home park owner, or an Energy Services Company (ESCO) for the energy fuel.

I understand that the petitioner needs help with her energy costs, but I have no authority to require her energy provider to participate in the program. Nor can I ignore rules that limit payment to certified provider except in a few cases that do not apply here.

CONCLUSIONS OF LAW

The petitioner is not entitled to Energy Assistance benefits because she does not receive her fuel from a provider who participates in the program.

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 12th day of November, 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 November 12, 2014.

Ashland County Department of Human Services
DOA - Energy Assistance