



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

ENE/159295

PRELIMINARY RECITALS

Pursuant to a petition filed July 25, 2014, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Energy - Milwaukee County in regard to Energy Assistance (EA), a hearing was held on August 20, 2014, by telephone.

The issue for determination is whether the EA agency correctly denied the petitioner's application due to failure to timely complete the application.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Administration
101 East Wilson Street
Madison, Wisconsin 53703

By: Valerie Jenkins, Energy Services Worker
Community Advocates
(Energy - Milwaukee County)
Milwaukee, WI

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. Community Advocates is one of at least two EA agencies in Milwaukee County. The petitioner telephoned the Community Advocates EA agency on May 9, 2014, requesting an EA application. She performed a telephonic intake interview on June 6, 2014, and the application was

commenced with an effective date of May 15, 2014. Such an application must be signed, so the EA worker mailed the application to the petitioner for signature on Friday, June 6, 2014.

3. The EA agency asserts that the deadline for return of the signed application was June 15, 2014 (30 days after the end of the heating season).
4. The petitioner was hospitalized from June 14 through June 30, 2014.
5. The Department issued written notice of denial of the application on approximately June 18, 2014.
6. The petitioner returned the signed application to the EA agency on July 7, 2014.

DISCUSSION

A person may receive Energy Assistance in an annual heating season if she meets the nonfinancial and financial criteria for the program. The heating season runs from October 1 through May 15. The financial criterion is a gross income limit (\$2,058 monthly for one in 2013-14), and the nonfinancial criteria include being a Wisconsin resident, furnishing a Social Security number, and having an “energy burden.” *Wisconsin Home Energy Assistance Program, Program and Operations Manual (WHEAP POM)*, §1.2 (July, 2013), at http://homeenergyplus.wi.gov/docs_list.asp?doccatid=81 . There is minimal pertinent federal and state statutory authority, so the state policy manual provides most of the implementation guidance for this program.

To obtain the EA benefit, a person must timely complete an EA application. *Id.*, § 3.1.1. The application must be initiated before the end of the heating season (May 15); that did occur in this case. *Id.* § 3.1.5. A *completed* EA application must be entered into the EA system within 30 days of the initiation of the application. *Id.*, § 3.1.9. A completed EA application includes a Client Certification Page that is signed and dated by the applicant. *Id.*, §§ 3.2.2 & 3.2.5. If the Client Certification Page is not returned within 30 days, the Department will deny that application:

If the applicant returns the information within 30 days, enter the additional information, save and submit the application and then ‘Accept Benefits’ for payment. If the documentation is not returned within 30 days, the system will deny the application as incomplete. The applicant will have to re-apply.

Id., § 3.2.5.

The EA agency commenced the processing of this application on June 6. Even if I give the petitioner the most generous policy construction possible, thirty days from June 6 was July 6. The petitioner’s return of her signed application was therefore outside of the 30 day application completion period, and denial was correct. She was unable to file a new application after July 7, because the heating season was over.

CONCLUSIONS OF LAW

1. Denial of the petitioner’s EA application was correct, as she did not return a signed application to the agency until July 7, 2014.

THEREFORE, it is

ORDERED

That the petition 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 24th day of November, 2014

\sNancy J. Gagnon
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 24, 2014.

Energy - Milwaukee County
DOA - Energy Assistance