



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
Redact

DECISION

ENE/161433

PRELIMINARY RECITALS

Pursuant to a petition filed October 21, 2014, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Energy - Milwaukee County in regard to Energy Assistance, a telephonic hearing was held on November 12, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the county agency met its burden of proof to establish that it correctly calculated the petitioner's 2014 Energy Assistance (EA) benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
Redact

Respondent:

Department of Administration
101 East Wilson Street
Madison, Wisconsin 53703

By: No Energy Assistance worker appeared at the hearing
Milwaukee Enrollment Services
1220 W. Vliet Street
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County who resides in a household of two with his wife, [REDACTED].
2. The petitioner applied for Energy Assistance (EA) benefits at the county agency during February, 2014 for a household of two.

3. No energy assistance county representative appeared at the November 12, 2014 hearing to provide any testimony or evidence, or to answer any of the petitioner's questions regarding the calculation of his EA benefits.
4. During the hearing, petitioner testified that he received no rental assistance and that he directly paid for electricity with WE Energies. Petitioner asserted that the Milwaukee county agency incorrectly and inaccurately calculated his 2014 energy assistance benefits to be \$85. Since about 2007, petitioner has received more than \$200 in EA benefits each year.
5. The county agency did not provide any reliable, non-hearsay evidence to establish that the county agency correctly and accurately calculated the petitioner's 2014 EA benefits.

DISCUSSION

No county representative appeared at the November 12, 2014 hearing and no testimony or evidence was provided by the county agency. As a result, the county agency did not present any reliable, non-hearsay evidence to establish that it correctly and accurately calculated the petitioner's 2014 energy assistance benefits. Therefore, this case is remanded to the county agency to re-determine petitioner's EA application for a household of two retroactive to his February, 2014 EA application.

CONCLUSIONS OF LAW

The county agency failed to meet its burden of proof to establish that it correctly and accurately calculated the petitioner's 2014 energy assistance benefits.

THEREFORE, it is

ORDERED

The matter is remanded to the county agency with instructions to: a) re-determine petitioner's 2014 EA benefits for a household of two; and b) issue to the petitioner all EA benefits to which he was entitled retroactive to his February 14, 2014 EA application, within 10 days of the date of this Decision.

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 9th day of February, 2015

\sGary M. Wolkstein
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 February 9, 2015.

Energy - Milwaukee County
DOA - Energy Assistance