



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

██████ ██████
████████████████
████████████████

DECISION

ENE/162064

PRELIMINARY RECITALS

Pursuant to a petition filed November 17, 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 (EA), a hearing was held on February 04, 2015, at Green Lake, Wisconsin.

The issue for determination is whether petitioner's income was over the EA limit.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

██████ ██████
████████████████
████████████████

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:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Green Lake County. She resides with her adult son.
2. On October 1, 2014, the Petitioner applied for energy assistance.

3. The Petitioner had monthly gross Social Security Income of \$1,159.00 during the three month period preceding her application. Petitioner's son's income during that same period averaged 1626.67 per month.
4. The agency denied the Petitioner's application for energy assistance due to income over the program limit.
5. On November 17, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.

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. Eligibility depends upon a household's income not exceeding 60% of the state average. Wisconsin Home Energy Assistance Program, Program and Operations Manual, pp. 1-3 and 2-12.

(The manual may be found online at <http://homeenergyplus.wi.gov/docview.asp?docid=22169>.)

Financial eligibility is based upon the household's gross income during the three months before the application date. Id., pp. 2-13 and 2-16. Applicants must verify the income of everyone in the household for those three months. Id., p. 3-19. No deductions from gross income are allowed for employment-related expenses, childcare, medical expenses or for any other reason. Id., p. 2-15.

The Petitioner argued at hearing that her son's income should not be included in determining the Petitioner's household income for purposes of eligibility because he does not financially contribute to the household. She further noted that she is very strained financially. However, neither the agency worker nor I have equitable authority to act contrary to the program regulations. The program regulations require the agency to consider petitioner's son who resides with petitioner as a household member and to count the income of all household members in determining eligibility.

For a household size of two, the program's income limit is \$8,223.00 for the 3 months prior to the application. In this case, the household had total monthly income of 8,357.00 Thus, the Petitioner's household income exceeds the program income limit for eligibility.

CONCLUSIONS OF LAW

The agency properly denied the Petitioner's application for energy assistance for the 2013 heating season.

THEREFORE, it is

ORDERED

That the petition be, and hereby 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 27th day of February, 2015.

\sPeter McCombs
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 27, 2015.

Green Lake County Department of Human Services
DOA - Energy Assistance