



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
Redact

DECISION

ENE/162439

PRELIMINARY RECITALS

Pursuant to a petition filed December 03, 2014, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Energy - Milwaukee County in regards to the sufficiency of Energy Assistance benefits, a telephone hearing was held on December 30, 2014, at Milwaukee, Wisconsin. At the request of the Department, the record was held open for 10 days for additional information. The additional information was provided by the Department and the Department’s representative reported that she would review and re-determined the petitioner’s eligibility for Energy Assistance based upon new information that the petitioner lives in Section 42 housing that is not considered government housing for EA purposes.

The issue for determination is moot; the agency has determined on its own motion that it would review and re-determine the petitioner’s eligibility for EA benefits as non-government housing applicant.

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: *Rec Redact*, EA Worker, Energy Services Worker
Energy - Milwaukee County

Milwaukee, WI

ADMINISTRATIVE LAW JUDGE:

Kenneth D. Duren, Assistant Administrator
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County. She applied for Energy Assistance benefits from the Department’s Milwaukee County agent on November 5, 2014.

2. On or about November 5, 2014, the Department's agent determined that the petitioner was living alone in government subsidized housing, in a 3 room unit, and she was eligible for an \$81 2014-2015 heating season public benefit.
3. On December 3, 2014, the petitioner filed an appeal with the Division of Hearings & Appeals contesting the sufficiency of the Energy Assistance benefit primarily because she had received Heating Assistance of \$177 and a Public Benefit of \$198 (\$375 total) based upon her 2013-2014 application for Energy Assistance.
4. At the hearing held on December 30, 2014, the petitioner reported that she lives in so-called "Section 42 housing"; and agency worker **Redact** testified that if this was so, then the petitioner would not be considered to be living in government subsidized housing and she might qualify for additional assistance. The record was held open for 10 days for **Redact** to verify the type of housing with the landlord.
5. On January 1, 2015, **Redact** filed Exhibit #2 reporting that the petitioner does live in Section 42 housing; that such housing is not considered subsidized governmental housing for EA purposes; and that she would review and re-determine the petitioner's eligibility for 2014/2015 heating season and notify the petitioner of the re-determination result and issue any supplement to which the petitioner was found entitled, if any.
6. The matter must be remanded for review, re-determination, and if entitled to any, issuance of supplemental benefits.

DISCUSSION

A hearing was held on December 30, 2014. The petitioner and the agency appeared. The petitioner asserted that she got more Energy Assistance help last year, while acknowledging housing changes since last year.

The agency representative noted that *if* the petitioner were not considered to be in governmental subsidized housing, she *might* be eligible for more Energy Assistance-related benefits. She requested that the record be held open for her to confirm that was the case. Subsequently, worker **Redact** reported in writing that the petitioner does live in Section 42 housing, and such housing is no longer treated as government subsidized housing for LIEAP processing purposes, meaning the petitioner may be eligible for additional benefits. **Redact** indicated she would review and re-determine. I will order that she do so here, to ensure that takes place. *If the petitioner is again aggrieved by the ultimate re-determination decision here ordered, then she is advised here that she must file a **new appeal** to contest the new determination.*

CONCLUSIONS OF LAW

That the petitioner may be eligible for additional Energy Assistance-related assistance because she lives in Section 42 housing and not government subsidized housing; and the matter must be remanded for review and re-determination.

THEREFORE, it is

ORDERED

That the matter is remanded to the Department and its agent for LIEAP administration in Milwaukee County, i.e., **Redact**, ATTN: **Redact** **Redact**; with instructions to review and re-determine the petitioner's eligibility for Energy Assistance related benefits for the 2014/2015 heating season treating her as if she lives in a Section 42 housing arrangement; and to issue all supplemental Energy Assistance related benefits to which she is otherwise entitled, if any, after offset for benefits

already issued for this hearing season, with written notice. These actions shall be completed 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 15th day of January, 2015

\sKenneth D. Duren, Assistant Administrator
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 15, 2015.

Energy - Milwaukee County
DOA - Energy Assistance