



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
Redact
[Redacted]

DECISION

ENE/162665

PRELIMINARY RECITALS

Pursuant to a petition filed December 12, 2014, under Wis. Admin. Code, §HA 3.03(4), to review a decision by the Social Development Commission to deny Energy Assistance (EA), a hearing was held on January 7, 2015, by telephone.

The issue for determination is whether the agency correctly denied EA because a household member already received EA this season.

PARTIES IN INTEREST:

Petitioner:

[Redacted]
Redact
[Redacted]

Respondent:

Department of Administration
101 East Wilson Street
Madison, Wisconsin 53703

By: [Redacted]
SDC Energy Assistance
6848 N. Teutonia Ave.
Milwaukee, WI 53209

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. Petitioner applied for EA on November 13, 2014. She showed her address to be [Redacted] [Redacted] Milwaukee, and that she lived with her children F.M. and S.R. During the application interview the worker noted that neither F.M. nor S.R. was on petitioner's Medical Assistance (MA) or FoodShare (FS) case, and that on those cases petitioner listed herself as homeless. She

told the MA/FS agency in January, 2011 that F.M. lives with his father, and she told the MA/FS agency in October, 2012, that S.R. moved out of her household.

3. In reviewing the situation further, the worker discovered that F.M. was listed on the FS case of his father, P.M., and that P.M.'s address for FS purposes was [Redac Redac] Milwaukee. In addition, P.M. applied for EA on October 14, 2014 listing [Redac], Milwaukee as the address. F.M. was included on the application, and \$713 in EA was issued to P.M.
4. Because P.M. used the same address for FS as petitioner's EA application, the worker added P.M. to petitioner's EA household. By a notice dated November 20, 2014, the agency denied petitioner's EA application because a household member already received the benefit.

DISCUSSION

EA is mandated by Wis. Stat. §16.385. The Department of Administration administers the program. §16.385(2)(a). The Department does so by publishing the Wisconsin Energy Assistance Program Operations Manual. The manual must follow the mandate of the statute, but it is up to the Department to specify policies where the statute is silent.

The Manual, §2.1, Program Eligibility, states as follows: "Households containing an individual who was a case head on a paid application during the current heating season are not eligible for regular heating/electric benefits. However, such a household may be considered for crisis assistance if all other eligibility requirements are satisfied."

The agency denied petitioner's application because P.M. already received EA as a case head. Petitioner denies that he lives with her and claims to have no idea why he uses her address. I find petitioner's testimony to be totally incredible.

Petitioner claims that both of her children live with her for EA, but neither is listed in her household for FS, and she specifically told the FS agency that the children do not live with her. She testified that she owns the home on [Redac] but for FS she is listed as homeless and she uses a post office box for mailing, a convenient arrangement if she is trying to avoid the agency discovering that she and P.M. actually live together. A review of computer records for both petitioner's and P.M.'s FS cases shows that P.M. has used the [Redac] address for FS purposes since January, 2011, which is the same time that petitioner and P.M. went to the FS agency together to report that F.M. had moved in with P.M. Of note is that the address P.M. used prior to January, 2011 was [Redac], the address used by P.M. in his October, 2014 EA application.

Petitioner vehemently insists that she has never claimed to be homeless. Her current status in the computer system for FS and MA, however, shows her address as [Redac], which is the agency's default address for homeless individuals. That status was updated on September 12, 2014. The post office box is listed as a mailing address only. Whether petitioner lists herself as homeless or not is irrelevant. The key is that she does not use [Redac Redac] as her address for FS and MA, while at the same time she applied for EA at that address.

Clearly there is something amiss with this household. Since P.M. has used the [Redac] address for over three years, I have no problem with the EA agency including him in petitioner's EA household, particularly since P.M. has custody of a child that petitioner now claims to live in her household. The denial was correct.

CONCLUSIONS OF LAW

The agency correctly denied petitioner's EA application because a household member already received EA as a case head during this heating season.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 15th day of January, 2015

\sBrian C. Schneider
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 January 15, 2015.

Energy - Milwaukee County
DOA - Energy Assistance