



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
Redact

DECISION

ENE/162731

PRELIMINARY RECITALS

Pursuant to a petition filed December 16, 2014, under Wis. Admin. Code §HA 3.03(4), to review a decision by SDC Energy Services - Milwaukee County in regard to Energy Assistance (Wisconsin Home Energy Assistance Program or WHEAP or EA), a hearing was held on January 8, 2015, by telephone. The hearing record was held open for seven days to allow the agency to make a written submission; the eight page submission was received.

The issue for determination is whether the agency correctly denied the petitioner's EA application due to excess income.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
Redact

Respondent:

Department of Administration
101 East Wilson Street
Madison, Wisconsin 53703

By: (no appearance) Energy Services Worker
SDC 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. The petitioner applied for Energy Assistance on December 8, 2014. The state agency subsequently issued written notice of denial of EA shortly thereafter. The basis for denial was excess income.
3. The petitioner had a household of four persons (petitioner, Redact, Redact) and was living in a single family residence at the time of application. The household received alleged gross income of \$22,904.09 in the three months preceding the month of application. That income correctly included Redact monthly Social Security of \$1,539 plus *gross* pension of \$2,017.43 (\$3,556.43 x 3 = \$10,669.29). The agency also entered the petitioner's alleged three month earnings of \$12,234.80 (\$4,550.37 for September, \$3,701.75 for October, and \$3,982.68 for November).
4. The petitioner's gross earnings from Children's Pantry were \$993.94 received in September, \$145.32 received in October, and \$426.25 received in November, 2014. These amounts total \$1,565.51.
5. For a December application, the household's gross income totaled **\$12,234.80** (\$10,669.29 + \$1,565.51).

DISCUSSION

For Energy Assistance purposes, the agency must consider all gross income received in the three months preceding application. *Wisconsin Home Energy Assistance Program, Operations Manual (WHEAP Manual)*, §2.3.2 (October 2014), at <http://homeenergyplus.wi.gov/>, "Grantee Information." No deductions are allowed unless specifically exempted. *Id.* If gross income is above the income limit, the household cannot qualify for Energy Assistance. The three-month limit for a four-person household was \$12,092 for 2014-2015; the petitioner's income was over that amount, so she did not financially qualify for a benefit payment. *Id.*, and "under 60% of state median income" (formerly, 150% of poverty level) chart at <http://homeenergyplus.wi.gov/refcenter.asp>, "Program Descriptions" button.

The point of disagreement between the petitioner and the agency was the petitioner's income. She appeared at hearing with her paystubs to prove her gross income. The agency did not appear. Using the petitioner's paystubs to determine her income, the household was still over the program income limit by \$142.80 in December. Thus, the petitioner has not met her burden of proving that the application denial was incorrect. The petitioner may reapply if her household income drops further, or if her household size increases. The three-month income limit for a household of five persons is \$14,027.

CONCLUSIONS OF LAW

The agency correctly denied the petitioner's December 2014 EA application due to income ineligibility.

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 3rd day of April, 2015

\sNancy J. Gagnon
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 April 3, 2015.

Energy - Milwaukee County
DOA - Energy Assistance