



**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

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

DECISION

ENE/163341

PRELIMINARY RECITALS

Pursuant to a petition filed January 17, 2015, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Energy - Milwaukee County in regard to Energy Assistance, a hearing was held on February 04, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether DHA has jurisdiction to hear and decide this matter.

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: Vanessa Burkett, Energy Services Worker
Energy - Milwaukee County

Milwaukee, WI

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. Petitioner applied for reimbursement of his furnace replacement costs under the WHEAP Program.
3. The agency denied the request

4. Petitioner appealed.

DISCUSSION

Energy Assistance 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 and other policy documents setting out eligibility for the program and other issues including dispute management. 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 Department's Furnace Program is described in the HE+ Furnace Program Manual found at <http://homeenergyplus.wi.gov/docview.asp?docid=26062&locid=25>. The manual describes the Department's policies and consumer rights under the program. Specifically, at §1.1(12) of the manual, the following is provided: "**Home Energy Plus Furnace Program service decisions are not eligible for appeal.**" This is also set forth on the WHEAP Program and Operations Manual at § 1.8.2. While a person can appeal financial or non-financial eligibility, the Department specifically does not allow appeals of service decisions. The appeal in this case is precisely the type for which an appeal is not allowed under the Department policy. The Division, thus, does not have jurisdiction over the denial of furnace repair or replacement.

CONCLUSIONS OF LAW

The Division of Hearings and Appeals does not have jurisdiction to hear petitioner's appeal concerning the denial of a repair or replacement.

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 27th day of April, 2015

\sJohn P. Tedesco
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 April 27, 2015.

Energy - Milwaukee County
DOA - Energy Assistance