



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

ENE/163710

PRELIMINARY RECITALS

Pursuant to a petition filed February 04, 2015, under Wis. Admin. Code §HA 3.03(4), to review a decision by the La Crosse County Department of Human Services in regard to Energy Assistance (EA), a telephone hearing was held on February 18, 2015. The petitioner had previously abandoned her appeal, but shortly thereafter requested a rehearing. Petitioner's rehearing request was granted.

The issue for determination is whether respondent correctly calculated petitioner's income.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

Department of Administration
101 East Wilson Street
Madison, Wisconsin 53703

By: Redact, Energy Services Worker
La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of La Crosse County.
2. On December 17, 2014, the county agency approved the application, and found petitioner eligible for \$91 in heating assistance and \$59 in electrical cost assistance. See, Exhibit 9.

3. Petitioner's income for the three months preceding her EA application was \$3,894.53. That amount included total Social Security payments and earned income. No rental income was received by petitioner during said 3 month period, and the respondent did not factor in any rental income. *Id.*

DISCUSSION

Based upon the record before me, I have to sustain the agency's income determination. The actual issue is whether the EA agency correctly budgeted petitioner's earnings. Energy Assistance (EA) is mandated by WI Stat § 16.385. The Department of Administration administers the program. See, WI Stat § 16.385(2)(a). The Department does so by publishing the *Wisconsin Home Energy Assistance Program & Operations Manual (Manual)*. The *Manual* must follow the mandate of the statute, but the department must specify policies where the statute is silent.

Energy assistance rules limit aid to those economic units whose total household income is no more than 150% of the poverty level unless all of the members receive W-2/TANF, Food Stamps, or SSI. **All gross income received by all adult household members in the three calendar months prior to the month of application is counted.** No deductions are allowed for employment-related expenses, childcare, set-asides, or for most other reasons. *Wisconsin Home Energy Assistance Program, Program and Operations Manual*, Chapter 3.

Testimony at hearing established that Petitioner's applicable three-month household income was \$3,894.53. Petitioner argued that she simply cannot afford her utility costs, as her building had been condemned and she has built up credit card debt. However, neither of these circumstances are considered in determining EA allotments. The petitioner has failed to establish any error on the part of the respondent in determining her EA allotment here.

CONCLUSIONS OF LAW

The petitioner has failed to establish any error on the part of the respondent in determining her EA allotment.

NOW, 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 19th day of March, 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 March 19, 2015.

La Crosse County Department of Human Services
DOA - Energy Assistance