



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

ENE/163932

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 10, 2015, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Dane County Department of Human Services in regard to Energy Assistance, a hearing was held on March 04, 2015, at Madison, Wisconsin.

The issue for determination is whether petitioner's appeal is timely.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Administration  
101 East Wilson Street  
Madison, Wisconsin 53703

By: (No Appearance)

Dane County Department of Human Services  
1819 Aberg Avenue  
Suite D  
Madison, WI 53704-6343

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Dane County.
2. Petitioner applied for Energy Assistance (EA) benefits on November 13, 2014, and following approval, she was awarded benefits in the total amount of \$409.00. Those funds were disbursed on or about December 29, 2014.

3. Petitioner filed an appeal February 10, 2015, indicating that she wished to appeal the end of her EA benefits.

### DISCUSSION

A household's income must be below 150% of the Federal Poverty Level (FPL) in order to be financially eligible for LIHEAP benefits. *Wisconsin Home Energy Assistance Program Manual, Chapter 3, §D.1.* The gross household income from the three calendar months prior to the month of application is counted. *Id., Chapter 3, §D.3.a.* Petitioner qualified for benefits, which were paid on or about December 29, 2014.

Petitioner filed the instant hearing request seeking additional EA benefits so as to reduce or eliminate the remaining amounts due to her utility providers. The respondent, in a letter dated February 19, 2015, informed petitioner that "per state policy, clients cannot appeal requests for additional funding. An appeal can only be made for the initial regular application, which you were approved for back in November, 2014." Exhibit 14.

Wis. Admin. Code HA 3.05 indicates an individual has 45 days to file an appeal from the date of adverse action. In this particular case petitioner explained at hearing that she was questioning an Energy Assistance benefit awarded to her in November, 2014. This administrative law judge does not have legal jurisdiction to address such an issue based upon the fact that it is over 45 days old.

The timeliness issue notwithstanding, petitioner should be aware that another portion of the LIHEAP may have the potential to address her problem. That is the Crisis Assistance component of the LIHEAP and is described in the *Wisconsin Home Energy Assistance Program Manual, at Chapter 4.1*, as follows:

Applicants are not entitled to any crisis benefit. Crisis Assistance is intended to provide emergency and/or proactive crisis services to assist applicants with substantial home energy needs.

1) Each local agency has latitude in the delivery of the LIHEAP crisis and Public Benefit crisis services and benefits – whether to assist, how many times to assist an eligible household, type of assistance to provide, and how much assistance to provide, etc. This latitude includes authority to provide assistance for fuel sources other than the primary heating fuel when such assistance addresses the goals of crisis assistance. In the crisis assistance program, households may receive more than one crisis benefit during a program year.

Note: The agency does not have latitude in the required response times. See section 4.3.

2) Each local WHEAP agency receives allocations of LIHEAP ("P" codes, see section 4.6.2) and Public Benefit ("PB" codes, see section 4.6.3) funds to be used for their crisis assistance needs. The funds are allocated for crisis assistance and may be used for emergency or proactive crisis services.

3) Emergency Crisis Assistance is intended to deal with "no-heat" situations during the heating season (October 1 – May 15).

4) Proactive Crisis Assistance may be provided to resolve a wide range of home energy related problems. These services may be provided at any time during the program year, (October 1 – September 30).

5) Crisis Assistance benefits are paid only to providers of goods or services, vendors.

There is no reimbursement for actions taken, or expenses incurred, by vendors prior to approval by the local WHEAP agency.

6) All crisis payments must be completed by the last extraction of the program year (normally September 30). Any crisis agreement not completed by the last extraction will deny.

The requirements for Crisis Assistance are found in the online version of the *Wisconsin Home Energy Assistance Program Manual at Chapter 4.2.1.* and are fairly extensive. Petitioner is encouraged to look into her eligibility for this program.

### **CONCLUSIONS OF LAW**

That petitioner's appeal of her November, 2014 Energy Assistance benefit is untimely.

**NOW, THEREFORE, it is ORDERED**

That petitioner's appeal 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 26th day of March, 2015

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\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 26, 2015.

Dane County Department of Human Services  
DOA - Energy Assistance