



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
Redact

DECISION

ENE/166035

PRELIMINARY RECITALS

Pursuant to a petition filed May 13, 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 June 23, 2015, at Madison, Wisconsin.

The issue for determination is whether the respondent correctly determined the petitioner's Energy Assistance allotment.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
Redact

Respondent:

Department of Administration
101 East Wilson Street
Madison, Wisconsin 53703

By: **No Appearance**

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Dane County.
2. The petitioner applied for Energy Assistance (EA) benefits in 2014, and received EA benefits of \$379.00.
3. In 2015, despite a drop in petitioner's household income, petitioner's EA benefits fell to \$130.00.

4. It is not possible to determine the basis for the respondent's EA allocation to the petitioner from the record.

DISCUSSION

Energy Assistance is a state-run program established by federal law. *See* 42 USC § 8621, et seq. and Wis. Stat. § 16.385. Rules for the program must follow Wisconsin statutes, but where the statutes are silent the Department of Administration may set policies. Eligibility depends upon a household's income not exceeding 60% of the state average. *Wisconsin Home Energy Assistance Program, Program and Operations Manual*, § 2.3.1. Generally, financial eligibility is based upon the household's gross income during the three months before the application date. However, income received from interest, dividends, tribal per capita payments, seasonal work, and self-employment is averaged for a 12-month period using the prior year's income tax return or the income from the previous 12 months. *Id.*, § 2.3.2. For a one-person household, the size of the petitioner's, the limit is \$2,096 per month. <http://homeenergyplus.wi.gov/category.asp?linkcatid=239&linkid=118&locid=25>.

The issue is whether the agency calculated the petitioner's EA allotment correctly. It is difficult to determine exactly what it did because no one from the agency testified. The respondent similarly failed to present any written submission in support of its position. The petitioner contends that the agency did award some EA benefits this year, for which she was grateful; however, the amount was lower than last year, and no explanation was provided. As such, she questions the budgeting and income determinations. Unfortunately, the respondent did not appear to provide any explanation. Additionally confusing is a partially dated April, 2015 letter to the petitioner from the respondent indicating that additional funding may be available for her utility bill. This, again, caused petitioner to question the year-over-year reduction in her EA benefits. Furthermore, petitioner's testimony regarding her lower income is uncontradicted by any testimony from the agency. Therefore, I will remand this matter to the county agency with instructions to redetermine her eligibility and determine if any additional funds should be awarded to her.

CONCLUSIONS OF LAW

The county agency failed to establish that it correctly calculated the petitioner's EA allotment for 2015.

THEREFORE, it is

ORDERED

That this matter is remanded to the county agency with instructions that within 10 days of the date of this decision it redetermine the petitioner's Energy Assistance allotment for 2015. The agency shall notify the petitioner of its redetermination, and shall include appeal rights in said written notice.

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 June, 2015.

\sPeter McCombs
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 June 26, 2015.

Dane County Department of Human Services
DOA - Energy Assistance