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

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In the Matter of

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

**DECISION**  
Case #: ENE - 216957

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on February 3, 2025, under Wis. Admin. Code HA § 3.03(4), to review a decision by the Wisconsin Home Energy Assistance Program regarding Energy Assistance, a hearing was held on February 26, 2025, by telephone.

The issue for determination is whether the agency correctly denied Petitioner's application for energy assistance for having gross household income over the program limit.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

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

Respondent:

Department of Administration  
101 East Wilson Street  
Madison, WI 53703

By: Betty Miller  
Wisconsin Home Energy Assistance Program  
PO Box 7970  
Madison, WI 53707-7970

**ADMINISTRATIVE LAW JUDGE:**

Wendy I. Smith  
Division of Hearings and Appeals

## FINDINGS OF FACT

1. Petitioner is a resident of Manitowoc County who lives in a household of himself and his two minor children.
2. On January 6, 2025, Petitioner applied for the Wisconsin Home Energy Assistance Program.
3. In a notice dated January 22, 2025, the agency advised Petitioner that he was ineligible for benefits under the program because his income exceeded the eligibility limit.
4. Not every member of Petitioner's household was a recipient of FoodShare, W2/TANF, or Supplemental Security Income at the time of the application.
5. Petitioner's gross income for the month prior to his application was \$5,195.49, based on gross earnings in paystubs dated December 6, 2024, December 13, 2024, December 20, 2024, and December 27, 2024.
6. Petitioner now appeals to the Division of Hearings and Appeals.

## DISCUSSION

The Wisconsin Home Energy Assistance Program (WHEAP, or also simply known as “energy assistance”) is a state run program which includes both the Low-Income Heating and Energy Assistance Program (LIHEAP), established by federal law to assist poor individuals with the economic burden of heating costs, and the Public Benefits Program, established by the State to assist the same population with non-heating electric costs. See 42 U.S.C. §.8621, *et. seq.*; Wis. Stat. § 16.27 and § 16.957. Funding under the WHEAP program is distributed to eligible applicants each program year until exhausted. *Program Year (PY) 2025 WHEAP Manual (WHEAP Manual)* § 1.1. Eligible applicants may receive one regular heat and/or one electric (non-heating) benefit during each heating season (October 1 to May 15). *Id.* at § 1.1.1.

In this case, the agency denied Petitioner's application for energy assistance due to having income over the program limit. Applicants to the program must satisfy financial eligibility requirements. For a household size of three applying during PY 2024-2025, the income limit is 60% of the state median income or \$4,944.83 per month or \$59,338.00 annually. Wis. Stat. § 16.27(5); *WHEAP Manual* §§ 2.3.1, Appdx. E. If the household's gross income exceeds the limit, it is not eligible unless the household is “categorically eligible.” *Id.* To be categorically eligible, *every* household member must be a recipient of W-2/TANF, FoodShare, or Supplemental Security Income (SSI) for the month prior to the date of application. *Id.* Based on the evidence provided, Petitioner's household did not satisfy the criteria for categorical eligibility at the time of the application.

For applicants with an income source, financial eligibility is based on gross income received during the prior month. *WHEAP Manual* § 2.3.2. The agency may also use gross income received in the prior 12 months or the previous tax year for income types like self-employment and seasonal income. *Id.* The agency used check stubs from Petitioner's employment to determine whether the household was financially eligible. The agency found Petitioner's gross income for the month prior to his application was \$5,195.49, which was annualized to \$62,345.88. These amounts match the paystubs entered into the record for this appeal. Petitioner argued at the hearing that he should be assessed based on his take-home or net pay, but the program rules are clear that gross household income is the relevant figure to use for eligibility determinations. The evidence shows that Petitioner was over the financial eligibility limit for a household of three.

Based on the record, the agency correctly denied Petitioner's application for energy assistance based on the income information provided by Petitioner. However, the agency's representative advised at the hearing that Petitioner may submit another application during the heating season if his income decreases. I also note that Petitioner testified that his income can be variable based on availability of overtime. The record does not reflect that Petitioner provided the agency with alternative documentation of his income that may better show any fluctuating income, such as a past year's tax return. Petitioner is advised to consult with the agency if he desires to reapply for energy assistance prior to the end of the heating season and to produce past year income information to the extent it may show a lower, eligible annual income amount.

### CONCLUSIONS OF LAW

The agency correctly denied Petitioner's application for energy assistance for having gross household income over the program limit.

**THEREFORE, it is** **ORDERED**

That Petitioner's appeal 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, 4822 Madison Yards Way, 5<sup>th</sup> Floor North, 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.

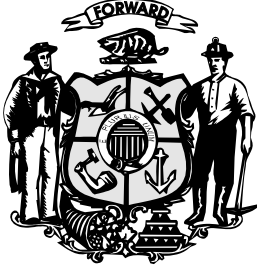
### **APPEAL TO COURT**

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, **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 Milwaukee,  
Wisconsin, this 21st day of March, 2025

\s \_\_\_\_\_  
Wendy I. Smith  
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 21, 2025.

Wisconsin Home Energy Assistance Program