

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL
BY THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES**

In the Matter of)	
)	
N D)	OAH No. 19-0577-HAP
<hr style="width: 40%; margin-left: 0;"/>)	Agency No.

DECISION

I. Introduction

The Division of Public Assistance (Division) denied N D’s application for the Heating Assistance Program on the grounds that he did not meet the energy burden eligibility requirement. Mr. D requested a fair hearing.

A telephonic hearing was held on July 23, 2019. Mr. D was present and represented himself. Jeff Miller, a Public Assistance Analyst, presented the Division’s position. Because the evidence shows that Mr. D does not meet the criteria for heating assistance based on his location, dwelling type and household size and income, the Division’s decision is affirmed.

II. Facts

On October 24, 2018 Mr. D submitted an application with the Heating Assistance Program administered by the Division of Public Assistance.¹ Mr. D listed his physical address as City A, and his mailing address as City B.² His dwelling was described as a school bus that is 38 feet long and 7.5 feet wide, or 285 square feet, parked on a property owned by E C.³ He included two paystubs for part time work at Employment A in 2018.⁴

At the formal hearing held on July 23, 2019 Mr. D offered more details regarding his living situation.⁵ The bus is unheated but has a wood stove, requiring Mr. D to buy several cords of wood during the winter. Electricity is provided via an extension cord that runs from E C’s house. Mr. D does not have the requisite Commercial Driver’s License to legally drive the bus, although it has a functional motor and air in the tires. He explained that he’s made structural adjustments within the bus, so the habitable space has been reduced to around 132 square feet. He no longer is employed. Mr. D described being very cold in the winter months and struggling to keep his living space warm with just the wood stove.

¹ Ex. 1-4.

² Ex. 2.

³ Ex. 2.1.

⁴ Ex. 2.7, 2.8.

⁵ Mr. D testified at the formal hearing held on July 23, 2019, as did Nicole Whitesides, Division Eligibility Technician, who offered more information about the details of the Heating Assistance Program.

After the Division received Mr. D's application for heating assistance his eligibility was calculated based on agency regulations that require evaluating various criteria on a point system. The Division considered the fact that he is a sole occupant of a school bus parked in City A and is currently unemployed. Under the regulations his situation was ascribed a value of 1.92 points. To qualify for heating assistance an applicant must be evaluated as being at 2 points or higher.⁶ Therefore, Mr. D's application was denied.⁷

III. Discussion

The purpose of the Heating Assistance Program is to provide assistance under the Alaska affordable heating program to low income households to offset the cost of home heating.⁸ The Alaska Heating Assistance Programs Policy Manual published by the Division explains what criteria is evaluated and how many points are assigned to each category.⁹ For Mr. D they are as follows:

1. *Community fuel points* – Every town, village or city in Alaska is assigned heating cost points based upon the community's annual fuel cost and climatic conditions.¹⁰ The community of City A is assigned 6 oil points.¹¹ However, since Mr. D heats his home with purchased wood, not oil, the regulation dictates that the 6 fuel oil points are to be multiplied by a factor of .8.¹² This results in a total of 4.8 fuel points.¹³

2. *Dwelling type* - The pertinent regulation states that the community heating cost points are to be multiplied by the first in a list of dwelling descriptions that most accurately applies to the applicant's situation.¹⁴ In Mr. D's case, the first description refers to a "mobile home or boat with heated living space of 980 square feet or more."¹⁵ This would not apply to Mr. D, however, as his dwelling is considerably smaller; either 285 square feet by the Division's calculation, or 132 square feet as he himself reported. The second description, however, references a "recreational vehicle, tent, or pickup camper" and is given a value of .04.¹⁶ Mr. D's

⁶ 7 AAC 44.080(m).

⁷ Ex. 7.

⁸ 7 AAC 44.200.

⁹ Alaska Heating Assistance Programs Policy Manual *available at* http://dhss.alaska.gov/dpa/Documents/main/manual/hap/HAP_Program_Manual.pdf.

¹⁰ Ex. 6.2.

¹¹ Ex. 5.

¹² 7 AAC 44.080(d).

¹³ 6 fuel oil points x .8 (Mr. D purchases wood) = 4.8 fuel points.

¹⁴ Ex. 6.3. *See also* 7 AAC 44.080(g).

¹⁵ 7 AAC 44.080(g)(1).

¹⁶ 7 AAC 44.080(g)(2).

remodeled bus would most appropriately fall into this category. Therefore, 4.8 fuel points multiplied by a dwelling value of .04 results in 1.92 points for heating assistance.¹⁷

3. *Household size and income* – The [Division] assigns each household a percentage of heating cost points based on the household’s gross monthly income and family size, expressed as a percentage of the Alaska poverty level.¹⁸ As Mr. D reports no income and lives alone, the regulation that applies to his situation states that he is to receive “100 percent of points if the household’s gross monthly income is no more than 25 percent of the Alaska poverty level.”¹⁹ Therefore, his calculated points (1.92) remain unchanged.

4. The remaining regulations do not apply to Mr. D as he is not yet 60 years of age, nor does he live in subsidized housing.

IV. Conclusion

A household with heating cost points of less than 2.0 is not eligible for assistance.²⁰ Mr. D’s situation is very sympathetic. He lives in a bus and testified credibly that he struggles to adequately heat his dwelling adequately during the winter months. However, under the regulations as currently written, he does not meet the criteria for heating assistance based on his location, dwelling type and household size and income. The Division’s denial of his application is affirmed.

DATED: September 19, 2019.

By: Signed _____
Danika B. Swanson
Administrative Law Judge

Adoption

The undersigned, by delegation from the Commissioner of Health and Social Services, adopts this Decision, under the authority of AS 44.64.060(e)(1), as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 4th day of October, 2019.

By: Signed _____
Name: Christopher Kennedy
Title: Administrative Law Judge

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]

¹⁷ 4.8 fuel points x .04 dwelling value = 1.92 points for heating assistance.

¹⁸ 7 AAC 44.080(i).

¹⁹ 7 AAC 44.080(i)(1).

²⁰ 7 AAC 44.080(m).