



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1027 N. Randolph Ave.  
Elkins, WV 26241

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

February 9, 2007

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 6, 2007. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for the Low Income Energy Assistance Program (LIEAP).

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

Eligibility for the Low Income Energy Assistance Program is based on current policy and regulations. Some of these regulations state as follows: The total monthly gross income of the assistance group must not be more than the maximum allowable gross income amounts in the chart in Chapter 10, Appendix A (West Virginia Income Maintenance Manual Section 26.2).

Information submitted at your hearing revealed that your countable household income for December 2006 exceeded LIEAP Program guidelines.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny your application for the Low Income Energy Assistance Program.

Sincerely,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Susan Hinzman, ESS, DHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES  
BOARD OF REVIEW**

\_\_\_\_,

**Claimant,**

v.

**Action Number: 07-BOR-471**

**West Virginia Department of  
Health and Human Resources,**

**Respondent.**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on February 9, 2007 for \_\_\_\_\_. This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing convened on February 6, 2007 on a timely appeal filed December 27, 2006.

**II. PROGRAM PURPOSE:**

The Low Income Energy Assistance Program (LIEAP) is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The goal of LIEAP is to provide financial assistance to eligible households that are affected by the rising costs of home heating that are excessive in relation to household income. It is not the purpose of this program to meet the entire cost of home heating during the winter season. Instead the program is designed to partially offset the continuing rise in costs of home heating.

**III. PARTICIPANTS:**

\_\_\_\_, Claimant  
Susan Hinzman, Economic Services Supervisor, DHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

It should be noted that the hearing was conducted telephonically.

**IV. QUESTIONS TO BE DECIDED:**

The question to be decided is whether the Department took the correct action in denying the Claimant's application for the Low Income Energy Assistance Program.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Sections 26.2 and 10, Appendix A

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 LIEAP application date-stamped as received on December 5, 2006
- D-2 West Virginia Income Maintenance Manual Sections 26.2 and 10, Appendix A
- D-3 Notice of Decision dated December 19, 2006
- D-4 Hearing information

**Claimant's Exhibits**

- C-1 Letter from [REDACTED] County Sheriff [REDACTED]

**VII. FINDINGS OF FACT:**

- 1) The Claimant's application for the Low Income Energy Assistance Program (D-1) was received and date-stamped in the [REDACTED] County DHHR Office on December 5, 2006.
- 2) At the time of application, persons residing in the household were the Claimant and \_\_\_\_\_. The Claimant was serving as an emergency adult family home care provider and Ms. \_\_\_\_\_ was placed in her household in September 2006.
- 3) The Claimant was receiving \$910 per month from DHHR to provide care for Ms. \_\_\_\_\_, and Ms. \_\_\_\_\_'s income included: Veterans Administration income- \$740.80; civil service pension- \$163.77; and Social Security- \$649.50. Total household income was \$2,464.07. The Economic Services Supervisor testified that none of the income could be excluded under policy.
- 4) Because the LIEAP income limit is \$1,430 for a two-person assistance group, the Department sent the Claimant a Notice of Decision dated December 19, 2006 (D-3) which states:

Action: Your application dated 12/05/06 for Home Heating Assistance under the Low Income Energy Assistance Program has been denied.

Reason: Income is more than the gross income limit for you to receive benefits.

- 5) The Claimant testified that she does not believe Ms. \_\_\_\_'s income should be considered because it was not available to her in December 2006. She indicated that the \_\_\_\_\_ County Sheriff was conservator for Ms. \_\_\_\_ and that he had paid outstanding bills with the income.
- 6) The Claimant provided a letter from \_\_\_\_\_ County Sheriff \_\_\_\_\_ (C-1) which states:

This letter is to inform you that Sheriff \_\_\_\_\_ was court appointed as Conservator for Ms. \_\_\_\_ on September 1, 2006. Ms. \_\_\_\_ was placed by DHHR in the home of \_\_\_\_, a DHHR approved Adult Home Care Provider, on September 14, 2006. Since our office had encountered some difficulties in being appointed Payee for part of Ms. \_\_\_\_'s income, the DHHR offered to pay the monthly amount due to Ms. \_\_\_\_ for Ms. \_\_\_\_'s care for 3 months, in order to give us time to sort out the problem with Ms. \_\_\_\_'s widow's annuity for her late husband's military service.

Beginning with the 2007 calendar year, we are now paying the entire monthly amount of \$814.00 to Ms. \_\_\_\_ from Ms. \_\_\_\_'s funds. We will be reimbursing the DHHR as soon as her assets have been liquidated. Since Ms. \_\_\_\_ is paying for her room and board monthly, her income is not to be considered as part of the household income for Ms. \_\_\_\_.

- 7) West Virginia Income Maintenance Manual Section 26.2A, 1 states:

The total monthly gross income of the assistance group (AG) must not be more than the maximum allowable gross income amounts in the chart in Chapter 10, Appendix A. No income deductions or disregards apply except the determination of gross profit for self-employment. When the gross monthly income of the AG exceeds the maximum allowable income amounts, the group is ineligible for LIEAP and the application is denied.

Income received or expected to be received during the month of application is used to determine eligibility.

- 8) West Virginia Income Maintenance Manual Section 26.2A 1, d, lists excluded sources of income for LIEAP. Excluded income does not include Social Security, pensions, Veterans Administration widow's benefits or money paid to adult care providers.

- 9) West Virginia Income Maintenance Manual Section 26.2, 2

The Assistance Group (AG) consists of any individual or group of individuals who are living together as one economic unit or who are sharing expenses and for whom residential home heating is customarily purchased in common or for whom

home heating is included in a rent or mortgage payment as a specified amount.

It is the responsibility of the applicant to list all individuals who are living in the home, regardless of whether or not they are family members or whether or not they share the cost of home heating. For the purpose of LIEAP eligibility, all household members are considered one AG.

When the AG includes a person(s) who has already received a LIEAP payment, he is not included in the AG and his income is not counted in determining eligibility.

- 10) West Virginia Income Maintenance Manual Section 10, Appendix A states that the maximum income limit for a two-person LIEAP assistance group is \$1,430.

#### **VIII. CONCLUSIONS OF LAW:**

- 1) Policy dictates that eligibility for the LIEAP Program is based on total gross, non-excluded household income and the number of individuals in the Assistance Group.
- 2) Policy states the income limit for a two-person LIEAP Assistance Group is \$1,430.
- 3) The Claimant's total non-excluded household income is \$2,464.07.
- 4) While the Claimant testified that Ms. \_\_\_\_'s income was unavailable to her in December 2006, policy includes no provisions by which the income can be excluded.
- 5) The Department's decision to deny the Claimant's LIEAP application is correct.

#### **IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny the Claimant's LIEAP application.

#### **X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 9th Day of February, 2007.**

---

**Pamela L. Hinzman**  
**State Hearing Officer**