



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 2590
Fairmont, WV 26555

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

February 26, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 23, 2007. Your hearing request was based on the Department of Health and Human Resources' decision 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 LIEAP Program is based on current policy and regulations. Some of these regulations state that eligibility for Regular LIEAP is based on a number of factors, including income, AG (assistance group) size, vulnerability to the cost of home heating, residence and citizenship. The Worker may request verification of any information provided by the applicant in determining eligibility for LIEAP benefits. The responsibility of the applicant in the eligibility determination process includes effort to obtain required verifications. Income from all sources for the AG must be verified when the applicant indicates a source of earned income for any AG member. Failure or refusal on the part of the applicant to obtain verification when required or requested by the Worker will result in denial of the application. (Virginia Income Maintenance Manual Chapter 26.2 & 26.3)

The information submitted at your hearing reveals that you failed to verify earned income within the time limits requested by your Worker.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your December 14, 2006 application for Regular LIEAP.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Lori Williams, ESW, DHHR

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

____,

Claimant,

v. **Action Number: 07-BOR-628**

**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 26, 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 was convened on February 23, 2007 on a timely appeal filed January 23, 2007.

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 rising costs of home heating which 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:

____ (Participated telephonically)
Lori Williams, ESW, DHHR

Presiding at the hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Department was correct in its decision to deny the Claimant's Regular LIEAP application for failure to verify requested information.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 4.2, 26.2 & 26.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary completed by Lori Williams
- D-2 LIEAP application received on 12/14/06
- D-3 LIEAP Denial Letter (Notice of Decision) dated 1/22/07
- D-4 Verification Request dated 1/3/07
- D-5 WVIMM Chapter 26.2, 26.3 and 4.2
- D-6 Case Comments for period 1/3/07 to 1/23/07

VII. FINDINGS OF FACT:

- 1) The Claimant submitted an application (Exhibit D-2) for the Low Income Energy Assistance Program, hereinafter LIEAP, on December 14, 2006. The Claimant's application included a copy of her current gas bill from Equitable Gas and a November 24, 2006 pay check.
- 2) The Department presented evidence to indicate that the Claimant's application was processed on January 3, 2007 (see Exhibit D-1 and D-6) and the determination was made that the Claimant's earned income would require further verification. A request for verification was mailed to the Claimant (Exhibit D-4) on January 3, 2007. This correspondence states, in pertinent part: "This is to inform you that the information listed below is needed to establish your eligibility and/or deduction for LIEAP. If this information is not made available to this office by 1/18/07 your eligibility for benefits and/or deduction cannot be established or continued."
- 3) On or about January 22, 2007, the Claimant was notified via a Notice of Decision that her LIEAP application dated 12/14/06 was denied. The reason is as follows: "You did not turn in all requested information."
- 4) Testimony received on behalf of the Department indicates that income verification was requested because of the November 24, 2006 pay check that was sent. The Worker was unable to determine if this was the only pay received during the period for which eligibility was being reviewed and she did not have confirmation that the Claimant was no longer employed.

- 5) The Claimant purported that while she has a secure mailbox with a locking door at her apartment complex, she uses a post office box in the downtown [REDACTED] Post Office to receive mail from the Department due to confidentiality issues. She stated that there are occasions when her mail has been put in her neighbor's mailbox. She acknowledged that she only goes to the [REDACTED] Post Office every three to four weeks and that is why she failed to respond to the Department's request for additional verification. Additionally, she thought that by providing a copy of the pay she had, and noting that SSI was to begin soon on her application, that the Worker would have assumed she provided all of her income. It should be noted, however, that the Claimant testified she did work one day in December 2006.
- 6) West Virginia Income Maintenance Manual Chapter 26.2.A - states that eligibility for Regular LIEAP is based on a number of factors, including income, AG (assistance group) size, vulnerability to the cost of home heating, residence and citizenship.
- 7) West Virginia Income Maintenance Manual Chapter 26.3.C (Verification) states:

Verification is the process of documenting statements and information provided by the applicant. Although specific guidelines for verifying certain eligibility criteria are indicated below, the Worker may request verification of any information provided by the applicant in determining eligibility for LIEAP benefits.

The responsibility of the applicant in the eligibility determination process includes the effort to obtain required verifications. However, if the applicant is unsuccessful in his attempt to obtain the verification or if he has physical or mental impairments which limit his ability to perform this responsibility and he has no family members or other persons who will help him, the Worker will obtain the verification.

The Worker must decide when and what information must be verified or when additional information must be obtained, particularly when information provided by the applicant is questionable or more information is needed to complete the eligibility determination or payment process.

Failure or refusal on the part of the applicant to obtain verification when required or requested by the Worker as outlined in the instructions below will result in a denial of the application.

1. Income from all sources for the AG must be verified when the applicant indicates a source of earned income for any AG member.

- 8) West Virginia Income Maintenance Manual Chapter 26.3 - states that Regular LIEAP applicants must be allowed 15 calendar days to respond to requests from the Worker for additional information. Failure to respond results in denial of the application [emphasis added]. The Worker must notify the client of the eligibility decision within 30 days of the date of application.

VIII. CONCLUSIONS OF LAW:

- 1) The policy that governs the LIEAP Program states that the Worker may request verification of any information provided by the applicant in determining eligibility for LIEAP benefits. Income from all sources for the AG (assistance group) must be verified when the applicant indicates a source of earned income for any AG member. Regular LIEAP applicants must be allowed 15 calendar days to respond to requests from the Worker for additional information. Failure to respond results in denial of the application. The Worker must notify the client of the eligibility decision within 30 days of the date of application.
- 2) In accordance with Regular LIEAP policy, the Department was correct to request verification of earned income. While the Claimant's application was not processed within the required 30 days, the application processing deadline was extended to allow the Claimant 15 days to provide the requested income verifications. The Department sent the request for verification to an address provided by the Claimant and it is the Claimant's responsibility to check her mail and provide the requested verifications. While the Claimant indicated that she has difficulty getting to the post office in [REDACTED] the Claimant has elected to not use a secure mail box at her residence.
- 3) Based on the evidence, the Department has acted within the guidelines of policy in denying the Claimant's December 14, 2006 application for Regular LIEAP.

IX. DECISION:

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

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 26th Day of February, 2007.

Thomas E. Arnett
State Hearing Officer