



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General

Joe Manchin III
Governor

Board of Review
P.O. Box 1736
Romney, WV 26757

Patsy A. Hardy, FACHE, MSN, MBA
Cabinet Secretary

April 22, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 19, 2010. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for the Emergency 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. These regulations provide that in order to qualify for Emergency LIEAP benefits, the applicant must have an emergency home heating need, defined as being without home heating or in immediate danger of being without home heating and being without resources to eliminate the emergency. Additionally, customers who receive direct payments of Regular LIEAP benefits must verify that the payment was used for home heating. (West Virginia Income Maintenance Manual § 26.2)

The information which was submitted at your hearing revealed that you failed to submit corresponding documentation with your application verifying that you utilized your Regular LIEAP benefits to purchase firewood.

It is the decision of the State Hearing Officer to Uphold the action of the Department to deny your application for Emergency LIEAP.

Sincerely,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
-----, ESS

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

-----,

Claimant,

v.

Action Number: 10-BOR-1068

**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 April 22, 2010 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 April 19, 2010 on a timely appeal, filed March 18, 2010.

II. PROGRAM PURPOSE:

The goal of the Low Income Energy Assistance Program (**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:

-----, Claimant
-----, Claimant's witness
-----, Economic Services Supervisor

Presiding at the Hearing was Eric L. Phillips, State Hearing Officer and a member of the Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department was correct in its decision to deny the Claimant's application for the Emergency Low Income Energy Assistance Program (LIEAP) for failing to submit verification of his purchase of firewood with his regular Low Income Energy Assistance Program payment.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 26.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Application for the Regular Low Income Energy Assistance Program dated October 20, 2009.
- D-2 Application for the Emergency Low Income Energy Assistance Program dated March 11, 2009
- D-3 Information submitted with customer application for the Emergency Low Income Energy Assistance Program.
- D-4 West Virginia Income Maintenance Manual § 26.2
- D-5 Notice of Denial dated March 16, 2010

VII. FINDINGS OF FACT:

- 1) On October 20, 2009, the Claimant applied for the regular Low Income Energy Assistance Program, herein after LIEAP (Exhibit D-1). The Claimant documented in his application that his primary source of home heating was wood or wood products and that he paid for such home heating cost. On October 26, 2009, the Department approved the Claimant's application and issued him a payment of Four Hundred and Twenty Four Dollars (\$424.00) to purchase wood.
- 2) On March 11, 2010, the Claimant submitted an application for Emergency LIEAP (Exhibit D-2). The Claimant noted no changes in his household circumstances and requested payment for wood heating. -----, Economic Service Supervisor testified that before the approval of the application for emergency LIEAP, the Claimant was required to provide receipts detailing the purchase of wood or wood products with his previously approved regular LIEAP funds. The Claimant submitted various receipts to document the expenditure of regular LIEAP funds (Exhibit D-3). The Claimant submitted the following receipts to the Department:

- A November 9, 2009, receipt from -----(Mother) for 85.00 for firewood
- A December 20, 2009 receipt from -----for 79.50 for firewood
- A January 29, 2010 receipt from -----(Mother) for 24.38 for coal
- A February 8, 2010 receipt from -----(Mother) for 24.38 for coal
- A March 1, 2010 receipt from -----(Mother) for 24.38 for coal dated
- An undated receipt from -----for 50.00 for firewood

Additionally, the Claimant submitted a court order eviction notice dated November 23, 2009 and a November 17, 2009 UHAUL Receipt for \$152.89 for moving services associated with his eviction from his residence. -----testified that the Claimant submitted a total of One Hundred Twenty Nine Dollars and Fifty cents (129.50) to verify the purchase of wood with his regular LIEAP payment. -----noted that the receipt of Eighty-Five (85.00) was not considered in the determination of the Claimant's application for emergency LIEAP as it verified a purchase by the Claimant's mother for wood for her home and she does not reside with the Claimant. Also the Claimant purchased Seventy-three dollars and Fourteen cents (73.14) worth of coal products to assist his mother with her home heating costs and was not purchased for the Claimant's use. -----testified that the Claimant failed to submit verification of purchase of wood heating for use in his own home in the amount of Four Hundred Twenty Four Dollars.

- 3) On March 16, 2010, the Department issued a Notice of Denial (Exhibit D-5). This notice documents in pertinent part:

Action: Your application dated 3/15/10 for Home Heating Assistance under the Emergency Low Income Energy Assistance Program has been denied.

Reason: Did not use regular LIEAP payment to pay heat bill.

Emergency LIEAP intake will close without notice

- 4) The Claimant testified that he recently relocated and that he would like the Department to reconsider the denial of his Emergency LIEAP application. The Claimant indicated that he was evicted from his previous residence and needed to use the regular LIEAP funds to alleviate expenses accumulated from his relocation to his new residence. The Claimant testified that he purchased coal for his mother as restitution for allowing him to utilize her truck to purchase his own firewood. -----, Claimant's witness attested that he assisted the Claimant in regards to his eviction from his previous residence and that the Claimant was experiencing financial difficulties during the period in question.
- 5) West Virginia Income Maintenance Manual § 26.2 (Exhibit D-4) states:

A. Emergency Home Heating Need

To qualify for Emergency LIEAP benefits, the applicant must have an emergency home heating need, defined as being without home heating or in immediate danger of being without home heating and being without resources to eliminate the emergency.

B. Verifying Use of Direct Payments

Clients who receive direct payment of Regular LIEAP benefits must verify that the payment was used for home heating by submitting a receipt with the Emergency LIEAP application. Failure to submit this verification of payment for home heating may result in denial of the Emergency LIEAP application unless verification can be otherwise obtained by the Worker

NOTE: Receipts for the purchase of bulk fuel must be dated prior to the date of application for Emergency LIEAP. The Worker must consider the date of the receipt(s) when determining if an emergency exists.

VIII. CONCLUSIONS OF LAW:

- 1) Policy defines an emergency home heating need as being without home heating or in immediate danger of being with home heating as well as being without resources to eliminate such emergency.
- 2) Policy requires regular LIEAP recipients to verify that the payment received was utilized for home heating before the approval of an application for emergency LIEAP.
- 3) Evidence and testimony indicated that the Claimant received regular LIEAP payments in October 2009 and was required to verify his purchase of firewood before the approval of emergency LIEAP funds. The Claimant submitted proof of One Hundred and Twenty Nine Dollars and Fifty cents for the purchase of firewood and failed to provide proof of purchase of the entire amount of regular LIEAP funds therefore the Department was correct in its decision to deny the Claimant application for emergency LIEAP benefits.

IX. DECISION:

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

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ day of April 2010.

**Eric L. Phillips
State Hearing Officer**