



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
4190 Washington Street, West  
Charleston, WV 25313

Joe Manchin III  
Governor

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

March 23, 2010

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 12, 2010. Your hearing request was based on the Department of Health and Human Resources' action to deny your Emergency Low Income Energy Assistance (LIEAP) application.

In arriving at a decision, the State Hearings 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 for Emergency LIEAP, 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. (WV Income Maintenance Manual Section 26.2.B.3 (a))

The information submitted at your hearing reveals that at the time of your application you did not have an emergency home heating need.

It is the decision of the State Hearings Officer to **uphold** the action of the Department to deny your Emergency LIEAP application.

Sincerely,

Cheryl Henson  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Michelle Hickman, Roane DHHR

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

-----,

**Claimant,**

v.

**Action Number: 10-BOR-944**

**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 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 March 12, 2010 on a timely appeal, filed on March 4, 2010.

**II. PROGRAM PURPOSES:**

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  
Michele Hickman, Income Maintenance Worker

Presiding at the Hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

#### **IV. QUESTION TO BE DECIDED:**

The question to be decided is whether the Agency was correct in its action to deny the Claimant's application for Emergency LIEAP.

#### **V. APPLICABLE POLICY:**

WV Income Maintenance Manual Chapter 26.2.B.3 (a)

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

##### **Department's Exhibits:**

- D-1 Hearing Request forms dated March 4, 2010
- D-2 Emergency LIEAP application and verifications
- D-3 WV Income Maintenance Manual Section 26.2.B.3 (a)
- D-4 Notification letter dated March 9, 2010

##### **Claimant's Exhibits:**

None

#### **VII. FINDINGS OF FACT:**

- 1) The evidence shows the Claimant applied for Emergency LIEAP (D-2) on March 4, 2010 at which time he verified that he had eliminated his emergent need for heating assistance on March 2, 2010. The Department subsequently denied the March 4, 2010 application and sent the Claimant a notification letter (D-4) which included the following pertinent information:

ACTION: Your application dated March 5, 2010 for Home Heating Assistance under the Emergency Low Income Energy Assistance Program has been denied.

REASON: Did not indicate the existence of an emergency.

- 2) The Claimant contends that he was faced with an emergency situation on March 2, 2010, having been completely without heat on that date. He testified that due to the dangerous road conditions from recent winter storms he was unable to travel out to buy wood pellets which he uses to heat his home. He stated that March 2, 2010 was the first day he was able to travel from his home. He added that he drove to town and called the Department's telephone number to speak with his caseworker, Ms. Hickman. The Claimant stated that he was informed by her previously that beginning in January he would need to schedule an appointment in order to be seen. He states that he was unable to speak with her and was told she would return his call that day. The Claimant testified that she called him later that evening and told him he could come in on March 4, 2010.
- 3) The Claimant testified that his neighbor loaned him the money on March 2, 2010 to purchase wood pellets for his home with the understanding that he would repay the loan when he was

- 4) The Department contends that policy does not allow the Emergency LIEAP application to be approved because the Claimant did not have an emergency heating need when he applied on March 4, 2010, having already purchased the wood pellets two days earlier which eliminated his emergency.
- 5) The Claimant's caseworker, Michele Hickman, testified that she remembers informing all her customers during the month of December that they would need to schedule appointments to see her in order to avoid a long delay in being seen. She added that she did not tell her customers that they would not be seen without an appointment; just that appointments would be seen prior to walk-ins. The Claimant stated he was under the impression that he would need an appointment in order to be seen.
- 6) West Virginia Income Maintenance Manual, Chapter 26.2.B.3 (a) states in part that 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.

## **VIII. CONCLUSIONS OF LAW**

- 1) The policy and regulations that govern the Emergency LIEAP program dictate that in order to qualify, 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 the resources to eliminate the emergency.
- 2) It is clear from the testimony provided during this hearing that the Claimant did not have an emergency heating need on March 4, 2010 when he applied for Emergency LIEAP.
- 3) It is also clear in that the Claimant either was misinformed or misunderstood directions from his caseworker regarding new local office procedural changes that dictate customers to schedule appointments prior to conducting business with the Department. As a result, the Claimant did not report to the Department's local office on March 2, 2010 to apply for Emergency LIEAP.
- 4) Regardless of this confusion, it is clear that on March 4, 2010, the date of the Claimant's application, he did not have an emergency heating need and is therefore not eligible for Emergency LIEAP on that date.
- 5) The Department was correct in its decision to deny the Claimant's March 4, 2010 application for Emergency LIEAP.

**IX. DECISION:**

The Department's action to deny the Claimant's Low Income Energy Assistance (LIEAP) application is hereby **upheld**.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision  
Form IG-BR-29

**ENTERED this 23<sup>rd</sup> Day of March, 2010.**

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**Cheryl Henson  
State Hearing Officer**