



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

Earl Ray Tomblin
Governor

Michael J. Lewis, M.D., Ph.D.
Cabinet Secretary

February 11, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 9, 2011. 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 Chapter 26.2).

Information submitted at your hearing reveals that your countable household income for October 2010 exceeded LIEAP eligibility guidelines.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying 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
Stephanie Hurst, FSS, DHHR

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

-----,

Claimant,

v.

Action Number: 10-BOR-2390

**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 convened telephonically on February 9, 2011 on a timely appeal filed December 13, 2010.

II. PROGRAM PURPOSE:

The goal of the Low Income Energy Assistance Program (LIEAP) is to provide financial assistance to eligible households 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
Stephanie Hurst, Family Support Supervisor, WVDHHR

Presiding at the hearing was Pamela L. Hinzman, 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 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 Chapters 26.2 and 10, Appendix A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 LIEAP application date-stamped as received by WVDHHR on October 22, 2010
- D-2 Request for additional information dated November 24, 2010 and additional documentation submitted by Claimant
- D-3 Notice of Decision dated December 13, 2010
- D-4 West Virginia Income Maintenance Manual Chapter 26.2
- D-5 West Virginia Income Maintenance Manual Chapter 10, Appendix A

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 Department's Randolph County Office on October 22, 2010. The application indicates the Claimant's primary household heating source is electricity, and that the household income includes -----earnings from REH Construction and -----Supplemental Security Income (SSI) of \$674 per month.
- 2) Family Support Supervisor Stephanie Hurst testified that a Department worker reviewed the application and sent the Claimant a request for additional information (D-2) on November 24, 2010. The Department requested that the Claimant provide a copy of her current electric bill with account number, as well as her husband ----- pay stubs for October 1, 2010, October 8, 2010, October 15, 2010 and October 22, 2010.
- 3) The Claimant provided the information requested by the Department on December 2, 2010 (D-2) and the worker determined that the household's average income for October 2010 of \$2,444 (\$1,770.74 earnings + \$674 SSI) exceeded the LIEAP guidelines of \$2,389 for a four-person assistance group. The Supervisor stated that the October 29, 2010 pay stub was also provided and used in the calculation of average income.

- 4) The Department sent the Claimant a Notice of Decision dated December 13, 2010 (D-3) which states, in pertinent part:

ACTION: Your application dated 10/22/10 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 did not dispute the Department's income calculation for October 2010, but testified that she never received a denial notice in regard to her LIEAP application. She indicated that she could have reapplied for LIEAP if the application had been processed in a timely manner as her husband's income subsequently dropped due to lack of work. Ms. Hurst indicated that the office had been short of staff during the LIEAP season and that the application acceptance period ended during the first week of December 2010. She stated that the denial notice was sent on December 13, 2010.

- 6) West Virginia Income Maintenance Manual Section 26.2A, 1 (D-4) 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.

- 7) West Virginia Income Maintenance Manual Section 26.2, 1, a, states that income received or expected to be received in the month of application is used to determine eligibility for LIEAP benefits.
- 8) West Virginia Income Maintenance Manual Section 10, Appendix A states that the maximum income limit for a four-person LIEAP assistance group is \$2,389.
- 9) West Virginia Income Maintenance Manual Section 26.2, 6 states that action must be taken to approve or deny a Regular LIEAP application within 30 days of the date it is received for processing by DHHR.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that eligibility for LIEAP benefits is based on total gross, non-excluded household income and the number of individuals in the assistance group. Income received or expected to be received in the month of application is used to determine eligibility.
- 2) Policy states that the income limit for a four-person LIEAP assistance group is \$2,389.
- 3) The Claimant's total non-excluded household income was calculated as \$2,444 for October 2010, the month of application.
- 4) The Department's decision to deny the Claimant's LIEAP application based on excessive income is affirmed. While the application was not processed within 30 days in accordance with policy, the Department would have still been required to use October 2010 income in determining eligibility, as October 2010 was the month of application. Therefore, untimely processing did not affect the Department's determination of financial ineligibility for October 2010.

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 11th Day of February, 2011.

**Pamela L. Hinzman
State Hearing Officer**