



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

Earl Ray Tomblin  
Governor

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

April 13, 2011

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 12, 2011. 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  
Janet Parsons, Roane DHHR

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

-----,

**Claimant,**

v.

**Action Number: 11-BOR-751**

**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 April 12, 2011 on a timely appeal, filed on March 8, 2011, and was conducted via videoconference link.

**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  
Janet Parsons, Department representative

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 Summary dated April 12, 2011
- D-2 Emergency LIEAP application dated March 4, 2011
- D-3 Copy of receipt for purchase of 200 gallon propane dated March 7, 2011
- D-4 Hearing request form dated March 8, 2011
- D-5 Email correspondence dated March 8, 2011

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

None

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

- 1) The evidence shows that the Claimant applied for Emergency LIEAP on March 8, 2011, at which time she verified that she had eliminated her emergent need for heating assistance on March 7, 2010 by purchasing two hundred (200) gallons of propane fuel (D-3) from Southern States. Although the Claimant signed her Emergency LIEAP application (D-2) on March 4, 2011, she testified that she did not actually apply for the program until March 8, 2011. The Department subsequently denied the March 8, 2011 application because it determined the Claimant did not have an emergency situation on the date she applied for the program, having already purchased the propane fuel prior to application.
- 2) The Claimant contends that she was faced with an emergency situation, having less than ten (10) percent of propane fuel in her tank, when she contacted Southern States in order to have fuel delivered. She testified that she was under the impression that policy required her to bring in a receipt showing she had purchased the fuel at the time of application. She referred to policy in the West Virginia Income Maintenance Manual, Section 26.2.B, specifically the policy which is marked at the bottom of the page denoting it as page thirteen (13), which she claims requires that receipts for purchase of bulk fuel be provided prior to application for Emergency LIEAP.
- 3) Policy in West Virginia Income Maintenance Manual §26.2.B.3 (b), which is located on page thirteen (13) of the section, contains policy related to "Verifying Use of Direct Payments", and states that 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.

This policy refers to individuals who have previously been approved for Regular LIEAP and received that benefit by means of a direct payment, rather than the payment being issued to the providing fuel supplier.

- 4) The Department's representative, Janet Parsons, testified that the Claimant did not receive a "direct payment" of Regular LIEAP benefits. She added that the Claimant was previously approved for Regular LIEAP with the payment being sent directly to her bulk fuel supplier. She added that because the Claimant never received a direct payment of her Regular LIEAP benefits, the policy in Section 26.2.B.3 (b) does not apply to her when determining eligibility for Emergency LIEAP.
- 5) 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 application process dictate that in order to qualify, an 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 evidence provided during this hearing that the Claimant did not have an emergency heating need, as defined by policy, on March 8, 2011 when she applied for Emergency LIEAP. The Claimant had just received, on March 7, 2011, a delivery of two hundred (200) gallons of heating fuel when she applied for the program on March 8, 2011; and as such, she did not meet the policy requirements necessary for approval of her Emergency LIEAP application.
- 3) The Department was correct in its decision to deny the Claimant's March 8, 2011 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 13<sup>th</sup> Day of April, 2011.**

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**Cheryl Henson  
State Hearing Officer**