



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
9083 Middletown Mall  
White Hall, WV 26554

Earl Ray Tomblin  
Governor

Rocco S. Fucillo  
Cabinet Secretary

August 23, 2012

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held August 22, 2012. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for 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 is based on current policy and regulations. Some of these regulations state that eligibility for LIEAP (Regular and Emergency) is based on a number of factors, including income, AG (Assistance Group) size, vulnerability to the cost of home heating, residence and citizenship. This policy goes on to state that 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 will result in a denial of the application (West Virginia Income Maintenance Manual Chapters 26.2 and 26.3).

Information submitted at your hearing reveals that you failed to provide requested verifications within the timeframe required by the Department.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your application for Emergency LIEAP benefits.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review  
Mark Paree, ESS, WVDHHR

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

-----,

**Claimant,**

v.

**Action Number: 12-BOR-1869**

**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 August 22, 2012, on a timely appeal filed July 24, 2012.

**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

Mark Patee, Economic Services Supervisor, WVDHHR representative

Presiding at the hearing was Thomas E. Arnett, State Hearing Officer and a member of the State 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 Emergency LIEAP based on his failure to provide requested verification.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Chapters 26.2 and 26.3

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

**Department's Exhibits:**

- D-1 Case Comments - 5/17/12 through 8/3/12
- D-2 Verification Checklist dated 5/17/12
- D-3 Notice of Decision dated 6/18/12
- D-4 West Virginia Income Maintenance Manual Chapter 26.3

**VII. FINDINGS OF FACT:**

- 1) On May 17, 2012, the Claimant completed an application for assistance through the Low Income Energy Assistance Program (LIEAP) administered by the Department of Health and Human Resources (Department).
- 2) Pursuant to policy found in the West Virginia Income Maintenance Manual Chapter 26.2.B, the Claimant was eligible to apply for Emergency LIEAP, as it was determined he had 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. Eligibility requirements are the same for Regular LIEAP, except for the additional requirement of verifying a heating emergency.
- 3) The Claimant was provided a Verification Checklist (D-2) and notified that he must verify the gross employment income of all Assistance Group (AG) members – -----, ----- and ----- – on or before May 27, 2012.
- 4) The Claimant returned to the Department's office on May 22, 2012 (see Exhibit D-1), and verified gross employment income for him and his wife; however, verification of his -----'s (daughter) gross income was not provided. Exhibit D-1 further reveals that on June 5, 2012, the Claimant provided income information for his daughter, but the information provided included her net income, not gross. The Department noted that as of June 15, 2012 (see documentation in Exhibit D-1), the Claimant had failed to provide the requested income verification, resulting in the denial letter (D-3) being sent to the Claimant on June 18, 2012. Additional documentation found in Exhibit D-1 reveals that a Department worker telephoned the Claimant on June 22, 2012, and a phone message was left advising the Claimant that his LIEAP application had been denied, and that a new application would need to be filed.

Subsequent documentation found in Exhibit D-2 dated July 18, 2012, and August 3, 2012 further reveals that the Claimant was advised in a phone message that his application had been denied because -----'s gross income was not verified and the program had closed effective June 30, 2012.

- 5) On or about June 18, 2012, the Claimant was notified via a Notice of Decision (D-3) that his application for benefits through the LIEAP was denied. This document indicates that the Claimant was not cooperating in relieving the emergency.
- 6) The Claimant proffered testimony to indicate that his inability to provide verification of his daughter's gross income at ---- ---- (restaurant) was beyond his control. He purported that his daughter previously received a paycheck, but because she had to wait on him or his wife to assist her with cashing her check, her employer began issuing her a cash card. This worked similar to a debit card - earnings were placed on the card so that she could have access to her money. This transpired about the time the application for LIEAP was completed, so the paystubs in their possession were too old, and her manager was unable to provide a statement of gross income payments. The Claimant contends that he verified his daughter's income before LIEAP closed on June 30, 2012, but acknowledged it was provided after he had received the denial notice.
- 7) West Virginia Income Maintenance Manual Chapter 26.2, 3a, states:

In order to qualify for a LIEAP payment, a household must be determined vulnerable or partially vulnerable to the cost of home heating.

Vulnerable households are those which must pay the heating cost for the home in which they reside. This cost must be paid directly to the provider as a separate payment or as a specified portion of a rent or mortgage payment. The amount specified as a heating cost must be stated on a rent receipt, lease, or other documentation.

Vulnerability also exists when the AG must pay at least a part of the cost of home heating, whether they pay just part of the cost each month or alternate payments with a third party.

- 8) West Virginia Income Maintenance Manual Chapter 26.3.C, 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.

Policy goes on to state that income from all sources for the AG must be verified when the applicant indicates a source of earned income for any AG member. Documentation may include pay check stubs, award letters, written statements from employers, etc...

9) West Virginia Income Maintenance Manual Chapter 26.3.F provides the following

Applicants must be notified of the eligibility decision within 30 days of the date of application. Notification is accomplished by computer-generated letter.

1. Pending Regular LIEAP

Applications Regular LIEAP applicants must be allowed 15 calendar day so 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. Pending Emergency LIEAP Applications

If verification and/or additional information is needed in order to make a decision on an Emergency LIEAP application, the appropriate request form must be completed and given to the applicant at the time of the intake interview. The applicant must be given 5 working days to return the requested information (emphasis added). The applicant must be notified of the eligibility decision as soon as possible but no later than 30 days from the date of application.

### VIII. CONCLUSIONS OF LAW:

- 1) Policy specifies that in order to qualify for LIEAP (Regular and/or Emergency), income from all sources for the AG must be verified. If more information is needed to complete the eligibility determination, the Department can request that additional verifications be provided. Failure or refusal on the part of the applicant to obtain verification when required or requested by the worker will result in a denial of the application. If verification and/or additional information is needed in order to make a decision on an Emergency LIEAP application, the appropriate request form must be completed and given to the applicant at the time of the intake interview. The applicant must be given five (5) working days to return the requested information. The applicant must be notified of the eligibility decision as soon as possible, but no later than 30 days from the date of application.
- 2) Evidence reveals that the Claimant was provided a Verification Checklist on May 17, 2012, requiring that he verify gross earned income for all members of the AG on, or before, May 27, 2012, to establish eligibility for Emergency LIEAP. Evidence further reveals that the Department allowed the application period to remain open well beyond the five (5)-day verification limit pursuant to Emergency LIEAP policy because the Claimant had difficulty securing income verification. While the Claimant alleged he provided the requested income

verification before LIEAP terminated on June 30, 2012, uncontested evidence demonstrates he failed to provide income verification prior to the deadline date on the Verification Checklist (May 27, 2012), or before the denial notice was issued on June 18, 2012.

- 3) Evidence demonstrates the Department was correct in its decision to deny the Claimant's application for Emergency LIEAP based on his failure to cooperate in relieving the emergency/provide income verification for all members of the AG.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying the Claimant's May 17, 2012, application for Emergency LIEAP benefits.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_ Day of August 2012.**

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**Thomas E. Arnett  
State Hearing Officer**