



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

January 11, 2012

----- and -----

Dear ----- and -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held January 10, 2012. 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 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 LIEAP, 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 in the determination of gross profit from self-employment. The maximum allowable gross income for an AG of 3 is \$2008.00. (WV Income Maintenance Manual Section 26.2.A, and Appendix A of Chapter 10 and 26)

The information submitted at your hearing reveals that your total monthly gross income at the time of application exceeded the maximum allowable income for the LIEAP program. There are no allowable deductions or disregards for your unearned income.

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

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review / Debbie Fields, Roane DHHR

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

IN RE: ----- AND -----,

Claimant,

v.

ACTION NO.: 11-BOR-2656

**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 ----- and ----- . 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' policy. This fair hearing was convened on January 10, 2012.

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:

----- and -----, Claimant
Debbie Fields, 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 LIEAP.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Chapter 26.2.A and Appendix A of Chapter 10 and 26

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notification letter dated December 13, 2011
- D-2 Excerpts from WV Income Maintenance Manual §26.2
- D-3 Screen prints from Department's computer system showing income and relevant case comments

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The evidence shows that the Claimant applied for Emergency LIEAP on November 17, 2011, at which time she verified that she verified her household's unearned income. The parties agree that the Claimant's total household monthly income was \$2023.00 at the time of application, and that this income is derived from unearned income sources. The parties also agree that the Claimant's household consists of 3 individuals.
- 2) The Department contends that the Claimant's total household income of \$2023.00 is excessive for LIEAP for her 3 person household, and that the application was denied as a result. The Department contends that the maximum allowable monthly gross income for a 3 person household is \$2008.00, and that there are no deductions or disregards from income allowed when determining a household's eligibility for LIEAP.
- 3) The Claimant contends that the Department should make an exception to the income guidelines in her circumstance because her household exceeds the maximum allowable income by only a few dollars. She stated that her family is experiencing unusual circumstances which are depleting the family's income and leaving no money left to pay for heating costs. She stated that her husband has cancer and that the family must travel often for his medical care. She added that her expenses for gas, automobile insurance as well as car payments deplete the family's monthly income.

- 4) Policy in West Virginia Income Maintenance Manual §26.2, A, stipulates that the total monthly gross income of the assistance group (AG) must not be more than the maximum allowable gross income amounts in the chart found in Chapter 10, Appendix A. No income disregards or deductions apply, except in the determination of gross profit from 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.
- 5) Policy in Appendix A, Chapters 10 and 26 of the West Virginia Income Maintenance Manual, stipulates that the maximum allowable monthly income for LIEAP is \$2008 for a 3 person household.

VIII. CONCLUSIONS OF LAW

- 1) The policy and regulations that govern the LIEAP application process dictate that the maximum allowable monthly gross income for an AG of 3 is \$2008.00. Policy specifies that there are no disregards or deductions allowed except in the determination of gross profit from self-employment.
- 2) The Claimant's household's total monthly gross income of \$2023.00 is derived from unearned income sources. None of the household's income is from self-employment, therefore, no disregards or deductions from income are allowed. The Claimant's countable income exceeds the maximum allowable income for her household size.
- 3) The Department was correct in its decision to deny the Claimant's November 2011 application for LIEAP.

IX. DECISION:

The Department's action to deny the Claimant's Low Income Energy Assistance Program (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 11th Day of January, 2012.

**Cheryl Henson
State Hearing Officer**