



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
P.O. Box 1247
Martinsburg, WV 25402

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

February 19, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-1145

Dear Ms. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Lori Woodward
State Hearing Officer
Member, State Board of Review

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

cc: Peter VanKleeck, ESS

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

██████████,

Claimant,

v.

Action Number: 15-BOR-1145

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on February 19, 2015, on an appeal filed January 26, 2015.

The matter before the Hearing Officer arises from the decision by the Respondent to deny Low Income Energy Assistance Program (LIEAP) payment.

At the hearing, the Respondent appeared by Peter VanKleeck, Economic Service Supervisor. Claimant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Summary
- D-2 LIEAP Pre-Authorization Form (CNLN), dated November 10, 2014
- D-3 Notice of denial, dated January 12, 2015

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Department received a LIEAP Pre-Authorization Form from the Claimant on November 20, 2014, which was processed the next day, on November 21, 2014. (Exhibit D-1) The Claimant's reported income at that time was \$817 per month.
- 2) On December 11, 2014, the Claimant reported starting a new job with a salary of \$2728.86 per month. (Exhibit D-1) Based upon her reported salary, her assistance group of three (3) became ineligible for the LIEAP program, and a denial letter was sent to her on January 12, 2015. (Exhibit D-3)
- 3) The Department's representative testified that although the income shown on the denial notice was incorrect as it counted both the Claimant previous job and her new job reported in December, the reported income of \$2728.86 per month did make the Claimant's household over income for the LIEAP program. The income limit for an assistance group of three (3) is \$2144 per month.
- 4) The Claimant testified that she agreed with the Department representative's testimony, but that she should not be held accountable agency errors. She did not contest the use of her current income.

APPLICABLE POLICY

WV Income Maintenance Manual (IMM) §26.1 explains that the LIEAP program is time-limited and dependent on the availability of federal funds. Households who indicated on eRAPIDS screen Special Payment Programs Questions that they would like to be evaluated for an automatic issuance of LIEAP, if determined eligible, will not be mailed a LIEAP application. These households will be mailed a LIEAP Pre-Authorization Notice, DFA-LIEAP-9 (also known as CNLN), that will consider them for an automatic LIEAP payment once returned to the Department. No further action is required once the completed DFA-LIEAP-9 is received as long as all other eligibility requirements are met.

IMM §26.2.A notes that 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. No income deductions or disregards apply except in 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.

DISCUSSION

The Claimant submitted a LIEAP Pre-Authorization Form on November 20, 2014, for consideration of an automatic LIEAP payment. In December 2014, the Claimant reported new employment with a change in her income to \$2728.86 per month. When the LIEAP opened for automatic LIEAP payments in January 2015, the Department considered her current income, and

found her over the eligible income limit of \$2144 per month for an assistance group of three (3). It is noted that the denial notice sent to the Claimant included both the Claimant's past and current income. However, the evidence showed that the Claimant remained over income for program eligibility based on the employment income she reported in December.

CONCLUSION OF LAW

The Department correctly found the Claimant ineligible for automatic payment for LIEAP based on policy guidelines.

DECISION

It is the decision of the State Hearing Officer to **uphold** the denial of Claimant's automatic payment for LIEAP.

ENTERED this 19th day of February 2015

**Lori Woodward
State Hearing Officer**