



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

March 31, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-1469

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: Catherine Hoeck, ESW, WV DHHR

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

██████████,

Claimant,

v.

Action Number: 15-BOR-1469

**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 March 26, 2015, on an appeal filed March 4, 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 Catherine Hoeck, Economic Service Worker. Claimant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

D-1 Notice letter dated February 13, 2015

Claimant's Exhibits:

C-1 Low-Income Energy Assistance Program (LIEAP) Instructions (DFA-LIEAP-1a)

C-2 Claimant's Hearing Summary

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 Claimant was sent a notice of LIEAP denial on February 13, 2015, stating “Your application for Lieap has been denied effective 01/09/2015. Here is why: Your gross income exceeds the income limit for this program.” (Exhibit D-1)
- 2) The Claimant testified that she had sent out her LIEAP application sometime in October, but could not remember the exact date. It is her contention that because the Department did not inform her of the denial of her LIEAP application until February, it was beyond the 30 days required by policy for the Department to process the application; therefore, she believes that the Department should be held accountable. She does not dispute the denial based on her income.
- 4) The Department representative, Catherine Hoeck (Ms. Hoeck), testified that the Claimant made an application for emergency assistance back in October. During that visit, Ms. Hoeck made a change in the computer system to the Claimant’s account number for [REDACTED] (electric company). Because of this change, Ms. Hoeck believes that a new worker erroneously thought that a LIEAP application had been made and ultimately sent out the February denial letter. (Exhibit D-1)
- 5) Ms. Hoeck testified that she unsuccessfully did a manual search for a LIEAP application made by the Claimant and also did a thorough check of all the local office logs. According to Ms. Hoeck, because the Department did not receive a LIEAP application from the Claimant, the denial notice should not have been issued.

APPLICABLE POLICY

WV Income Maintenance Manual §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. It is also noted 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.

DISCUSSION

The Department erroneously sent a LIEAP denial letter to the Claimant when, in fact, there was no evidence that a LIEAP application was received by the Department. The Claimant does not dispute her ineligibility based on her income. However, the Claimant seeks punitive action against the Department by the Board of Review for not processing her LIEAP application within the 30 days prescribed by policy, even though she would not have been eligible based on the income guidelines.

The Board of Review has no punitive authority prescribed by policy to grant the relief requested by the Claimant. The Department's finding that the Claimant was over income for LIEAP eligibility was correct.

CONCLUSION OF LAW

Per policy income guidelines, the Claimant was ineligible for LIEAP benefits.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's LIEAP denial.

ENTERED this 31st day of March 2015

**Lori Woodward
State Hearing Officer**