



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 East Third Avenue
Williamson, WV 25661

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

May 22, 2015



RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-1923

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,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

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

cc: Carla Addair, Economic Service Supervisor

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

██████████,

Claimant,

v.

ACTION NO.: 15-BOR-1923

**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' (WV DHHR) Common Chapters Manual. This fair hearing was convened on May 15, 2015, on an appeal filed April 27, 2015.

The matter before the Hearing Officer arises from the April 7, 2015 decision by the Respondent to deny the Claimant's application for the Emergency Low-Income Energy Assistance Program (Emergency LIEAP).

At the hearing, the Respondent appeared by Representative Carla Addair, Economic Service Supervisor at the WV DHHR, ██████████ Office. The Claimant appeared *pro se*. Appearing as a witness for the Claimant was ██████████. The participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 WV DHHR Income Maintenance Manual (IMM), Chapter 26, §26.3
- D-2 Regular LIEAP approval letter from Department, dated January 12, 2015
- D-3 Emergency LIEAP application form, submitted by Claimant on March 30, 2015
- D-4 Verification Checklist letter from Department, dated March 30, 2015
- D-5 LIEAP Denial letter from Department, dated April 7, 2015

Claimant's Exhibits:

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence, 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) On January 12, 2015, the Department notified the Claimant that she had been approved for Regular (non-emergency) LIEAP in the amount of \$229 (Exhibit D-2). The Department paid that sum to [REDACTED] for the Claimant's primary heating source, electricity.
- 2) On March 30, 2015, the Claimant submitted an application for Emergency LIEAP (Exhibit D-3). Attached to her application was a termination notice from [REDACTED] [REDACTED] in the amount of \$696.05.
- 3) On March 30, 2015, the Department sent to the Claimant a verification checklist (Exhibit D-4) indicating the Claimant needed to submit verification that she had paid \$425.05 to [REDACTED] before the Department could pay the Emergency LIEAP amount of \$271. The verification checklist indicated the Claimant needed to provide this verification by April 3, 2015.
- 4) On April 7, 2015, the Department sent to the Claimant a letter (Exhibit D-4) that reads as follows in part, "Your application for Low-Income Energy Assistance Program (LIEAP) dated 03-30-2015 has been [denied]." The letter explained that the application was denied because the Claimant did not provide "proof that you are cooperating in relieving the heating emergency."

APPLICABLE POLICY

WV Income Maintenance Manual (IMM), Chapter 26, §26.3.E.1 reads as follows: "The maximum allowable payment of a combined Regular and Emergency LIEAP benefit cannot exceed the maximum per [assistance group] established for each program year."

WV IMM, Chapter 26, §26.3.E.3 reads as follows: "Emergency LIEAP payments cannot exceed the maximum allowable payment for the program year. To determine if a payment can be made, the Worker must compare the amount available to the applicant and the amount needed to eliminate the emergency . . . When the amount required to eliminate the emergency exceeds the amount of the Emergency LIEAP payment, the application for Emergency LIEAP benefits is denied if the emergency is not eliminated. The applicant must find other resources or negotiate with the home heating supplier to accept the Emergency LIEAP benefit."

The total combined amount of Regular and Emergency LIEAP is determined by the amount of funding the Federal government grants to West Virginia to manage the LIEAP program. For the current LIEAP funding year, that amount is \$500.

DISCUSSION

The Department approved the Claimant for Regular LIEAP in the amount of \$229 in January 2015. In March 2015, the Claimant presented a termination notice in the amount of \$696.05. The amount of Emergency LIEAP available to the Claimant was \$271 (\$500 maximum combined LIEAP amount - \$229 Regular LIEAP amount).

The Claimant testified that she receives \$500 per month in alimony, and that is all of the income she receives per month. She stated that there was no way she could have afforded to pay approximately \$425 on her electricity bill.

However, policy is clear that the maximum allowable payment for Regular and Emergency LIEAP benefit cannot exceed the maximum per assistance group established for each program year, which is \$500 for 2015. Further, policy is clear that if the amount required to alleviate the emergency is more than the maximum allowable, the applicant must find other resources to pay the balance of the bill or negotiate with the heating supplier to accept the Emergency LIEAP amount. The Claimant did not provide evidence or testimony to the effect that she did so.

CONCLUSION OF LAW

The Department acted correctly to deny the Claimant's March 30, 2015, application for Emergency LIEAP. Pursuant to WV IMM, §§26.3.E.1 and 26.3.E.3, the Claimant did not verify that she found resources to pay the balance of her termination notice or negotiated with [REDACTED] to accept the Emergency LIEAP amount.

DECISION

It is the decision of the state Hearing Officer to **uphold** the Department's decision to deny the Claimant's application for Emergency LIEAP.

ENTERED this 22nd Day of May 2015.

**Stephen M. Baisden
State Hearing Officer**