



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
4190 West Washington Street
Charleston, WV 25313

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

April 26, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-1391

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,

Natasha Jemerison
State Hearing Officer
Member, State Board of Review

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

cc: Tera Pendleton, ESW

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

██████████,

Appellant,

v.

Action Number: 17-BOR-1391

**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 April 25, 2017, on an appeal filed February 23, 2017.

The matter before the Hearing Officer arises from the February 23, 2017 determination by the Respondent that the Appellant was not eligible for the Low Income Energy Assistance Program (LIEAP), because she did not apply.

At the hearing, the Respondent appeared by Tera Pendleton, Economic Service Worker. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Case Comments computer screen prints, dated October 20, 2016 through March 8, 2017
- D-2 AG Eligibility History and Case Benefit Summary computer screen prints, dated January 2014 through January 2015
- D-3 Client Notices Summary computer screen prints, dated May 2015 through February 2017

Appellant's Exhibits:

None

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) Open application intake for the Low Income Energy Assistance Program (LIEAP) began on February 6, 2017, and it ended on February 17, 2017.
- 2) The Appellant was not sent a computer generated LIEAP mail-out application for the 2017 LIEAP application period. (D-3)
- 3) The Department did not receive a LIEAP application from the Appellant. (D-1)
- 4) The Appellant contends she completed and mailed a LIEAP application to the Department before the end of the open intake period.

APPLICABLE POLICY

The West Virginia Income Maintenance Manual (WVIMM), at §26.1, explains that during the annual open application intake period for the Low Income Energy Assistance Program (LIEAP), individuals who did not receive a LIEAP mail-out application may apply for LIEAP at their local DHHR office or at any outreach location. The application is also available on the DHHR website. An inROADS application is complete when the application is electronically signed by the applicant or the signed signature page is received. If mailed, the signature page must be postmarked by the close of business on the last day of the intake period.

WV IMM §26.1 instructs that the DFA-LIEAP-6, LIEAP Application Log, can be used by the county DHHR office to track LIEAP applications and ensure timely processing and issuance of checks. Use of this form is optional, but the use of some type of log is mandatory.

WV IMM §26.3 outlines the LIEAP application process. Once the LIEAP application is received, the DHHR worker must verify income and the applicant's main heating source. The application is processed in RAPIDS to determine eligibility and the amount of payment. Once complete, the worker must notify the applicant of the action taken.

DISCUSSION

The Appellant requested a fair hearing because she was not approved for the Low Income Energy Assistance Program (LIEAP) for 2017. She stated she called and asked the Department to mail a LIEAP application to her residence. The Appellant testified that she completed the

application and mailed it back to the Department before the end of the LIEAP intake period. She stated she could not remember the date she requested or mailed the application.

Policy explains that during the annual open application intake period for the LIEAP, individuals who did not receive a LIEAP mail-out application may apply for LIEAP at their local DHHR office, online, or request an application in the mail. If mailed, the signature page must be postmarked by the close of business on the last day of the intake period.

Open application intake for the LIEAP began on February 6, 2017, and ended on February 17, 2017. The Department's representative, Tera Pendleton, testified that the Appellant was not approved or denied for LIEAP, because the Department did not receive an application from the Appellant. Ms. Pendleton testified that the Appellant was not sent a computer generated LIEAP mail-out application for the 2017 LIEAP application period, and the Appellant has not received LIEAP since 2014. Ms. Pendleton stated that all incoming mail to the Department is scanned into a computer system, and there is no evidence to show the Appellant mailed a LIEAP application to the Department.

There was not sufficient evidence to support that the Appellant completed or mailed a LIEAP application to the Department during the open application intake period. Because the Department did not receive a LIEAP application from the Appellant, the Department cannot approve the Appellant for LIEAP.

CONCLUSION OF LAW

Because the Department did not receive a LIEAP application by the close of business on the last day of the intake period as required by policy, the Department could not approve the Appellant for LIEAP benefits.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's determination that the Appellant is not eligible for LIEAP, because no application was received.

ENTERED this 26th day of April 2017

**Natasha Jemerison
State Hearing Officer**