



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

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

June 9, 2017



RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-1838

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

cc: Heather Keffer, Economic Service Supervisor

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

██████████,

Appellant,

v.

ACTION NO.: 17-BOR-1838

**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 June 5, 2017, on an appeal filed May 15, 2017.

The matter before the Hearing Officer arises from the May 1, 2017 decision by the Respondent to deny the Appellant's application for the Emergency Low-Income Energy Assistance Program (hereinafter Emergency LIEAP).

At the hearing, the Respondent appeared by Representative Heather Keffer, Economic Service Supervisor. Appearing as a witness for the Respondent was Giovanna Brown, Economic Service Worker. The Appellant appeared *pro se*. The participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

D-1 Letter from Department to Appellant dated May 1, 2017

Appellant'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) The Appellant applied for Emergency LIEAP at the WV DHHR, ██████ County Office, on or about April 5, 2017. She had a termination notice from her electrical service utility company, American Electric Power (AEP). At that time, the Appellant was informed that she had to pay about \$400 out of a past-due electricity bill.
- 2) The Appellant obtained pledges from various churches and other helping agencies in order for her to pay her portion of her electricity bill, so that the Department could pay its portion through Emergency LIEAP.
- 3) On April 12, 2017, the Appellant returned to the ██████ County Office to complete her Emergency LIEAP application. At that time, a Department worker informed her that a new electricity bill had been issued by AEP, and the amount of money the Appellant had to pay before the Department could pay the balance had increased. The Appellant could not pay the difference, so the Appellant's Emergency LIEAP application was denied.
- 4) The Department issued a letter of denial for the Appellant's Emergency LIEAP application on May 1, 2017 (Exhibit D-1).
- 5) The Appellant requested a fair hearing based on the denial of her Emergency LIEAP application.

APPLICABLE POLICY

WV Income Maintenance Manual (WV IMM) Chapter 26, §26.3.C reads as follows in part:

The responsibility of the applicant in the eligibility determination process includes the effort to obtain required verifications. However, if the applicant is unsuccessful in his attempt to obtain the verification or if he has physical or mental impairments which limit his ability to perform this responsibility and he has no family members or other persons who will help him, the Worker will obtain the verification.

WV IMM Chapter 26, §26.3.E.3 reads as follows in part:

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.

DISCUSSION

The Appellant applied for Emergency LIEAP on or about April 5, 2017. She testified she was informed by a Department worker that she had to verify she or other helping agencies had paid a certain amount toward her termination notice before the balance could be paid with Emergency LIEAP funds. She testified that she obtained pledges for her portion of the bill from churches and other helping agencies for her portion of the bill, but when she returned to the WV DHHR, ██████ County office, on April 12, 2017, to complete the application, she was informed the amount had increased because her electricity utility, AEP, had issued a new bill and the balance had changed. She stated it was late in the day on the last day for her to complete the application, and she could not obtain additional assistance for this increased amount, so her application was denied.

The Department's representative testified that the Appellant's application was denied because the Appellant had made a payment arrangement with AEP. She stated that because the Appellant made the payment arrangement, the emergency was alleviated and she no longer was eligible for Emergency LIEAP.

The Department sent the Appellant a denial letter for her Emergency LIEAP application on May 1, 2017 (Exhibit D-1). This letter read in part: "This individual [the Appellant] does not meet eligibility requirements for this assistance . . . The following information was not verified . . . Proof that you are cooperating in relieving the heating emergency."

The Department called a witness, the Economic Service Worker who saw the Appellant on April 12, 2017. She testified that she called AEP, and no payment arrangement had been made. The Department's representative then stated she thought the worker had told her a payment arrangement had been made.

The Appellant testified that she obtained pledges for her portion of her electricity bill termination notice as instructed on or about April 5. She testified that on the last day in which she had to complete the Emergency LIEAP application, she was informed the amount had increased and she could not obtain the additional money.

The Department did not provide evidence to support its position that the Appellant failed to pay her portion of her electricity bill. Further, the Department did not provide evidence of any aspect of this case. The only evidence the Department provided was the denial notice. There is nothing to indicate the past due amount of her electricity bill, the amount the Appellant was required to pay, or the amount to be paid with Emergency LIEAP funds. The Department's representative testified the application was denied because the Appellant had made a payment arrangement with AEP, thus alleviating the emergency and rendering herself ineligible for Emergency LIEAP. However, the Department's witness contradicted this testimony.

Due to the dearth of evidence to support its position that the Appellant failed to provide verification of cooperation in relieving the emergency, the denial of the Appellant's application for Emergency LIEAP is reversed, and the issue is remanded to the Department to calculate the amount of Emergency LIEAP due to her.

CONCLUSION OF LAW

The Department did not provide a preponderance of evidence to support its position that it acted correctly to deny the Appellant's application for Emergency LIEAP, pursuant to WV IMM §§26.3.C and 26.3.E.3.

DECISION

It is the decision of the state Hearing Officer to **reverse** the Department's decision to deny the Appellant's April 2017 application for Emergency LIEAP, and to **remand** the application back to the WV DHHR, [REDACTED] County Office, to determine the exact amount of Emergency LIEAP benefits due to her.

ENTERED this 9th Day of June, 2017.

**Stephen M. Baisden
State Hearing Officer**