



June 9, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NOS.: 17-BOR-1465; 17-BOR-1466; 17-BOR-1467

Dear Ms. [REDACTED]

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

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,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

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

cc: Michalle Boren, Department Representative  
**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

**BOARD OF REVIEW**

[REDACTED],

**Appellant,**

v.

**Action Nos.: 17-BOR-1465 (SNAP)**

**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 [REDACTED]. 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 May 2, 2017, on an appeal filed March 13, 2017.

The matter before the Hearing Officer arises from the Respondent's March 8, 2017 decision to establish the level of the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits and deny Medicaid benefits to the Appellant, and the Respondent's March 8, 2017 and March 15, 2017 decisions to deny Low Income Energy Assistance Program (LIEAP) payment to the Appellant.

At the hearing, the Respondent appeared by Michalle Boren. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Case summary
- D-2 Hearing documents – Scheduling Order; IG-BR-29 form; Hearing request forms; Screen print of appointment information regarding the Appellant from the Respondent's data system; Verbal withdrawal confirmation letter; Second IG-BR-29 form
- D-3 LIEAP application, dated February 6, 2017; LIEAP denial notice, dated March 8, 2017; LIEAP denial notice, dated March 15, 2017; Medicaid denial notice, dated March 8, 2017; SNAP approval notice, dated March 8, 2017
- D-4 Screen prints regarding the Appellant's case from the Respondent's data system – Case comments, entry dates from March 7, 2017, to March 21, 2017; SNAP budget (allotment determination), effective April 1, 2017
- D-5 West Virginia Income Maintenance Manual (WVIMM) excerpts – §26.3; §26.2; §1.3; §2.1; §10.4; Chapter 10, Appendix B;

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 Appellant is a recipient of SNAP benefits.
- 2) The Respondent issued a notice, dated March 8, 2017 (Exhibit D-3), advising the Appellant of her continuing eligibility for SNAP benefits.
- 3) The SNAP notice (Exhibit D-3) further advised the Appellant of the Respondent's determination of her monthly SNAP allotment amount of \$16, and the income, deduction and disregard amounts used to make that determination.
- 4) The income, deduction and disregard amounts used to determine the Appellant's monthly SNAP allotment were correct.
- 5) The Appellant's SNAP assistance group size is one (1).
- 6) The Appellant's SNAP countable income is \$1029. (Exhibit D-3)
- 7) The Appellant is a recipient of a Medicaid limited coverage group known as Specified Low-Income Medicare Beneficiaries (SLIMB).
- 8) The Appellant did not apply for a Medicaid full coverage group.
- 9) In conjunction with a notice advising the Appellant of her ongoing eligibility for SLIMB, the Respondent additionally issued a March 8, 2017 notice to the Appellant advising her that she was denied for "spenddown coverage" – a Medicaid full coverage group – because the "application/redetermination form received cannot be used for this type of medical assistance." (Exhibit D-3)
- 10) The Appellant applied for LIEAP on February 6, 2017. (Exhibit D-3)
- 11) The Appellant listed her primary source of home heating as a "space heater" on this application. (Exhibit D-3)
- 12) The Appellant's primary source of home heating is gas.
- 13) The Respondent issued a notice, dated March 8, 2017 (Exhibit D-3), advising the Appellant that her LIEAP application was denied due to an "energy type not used to heat home."
- 14) The Respondent issued a second notice, dated March 15, 2017 (Exhibit D-3), advising the Appellant that her LIEAP application was denied because "Portable heating devices

such as, but not limited to, electric and kerosene space heaters, are not considered primary sources of heating except when an emergent life-threatening situation exists, the dwelling is totally without a heating source, and the [assistance group] has no alternate housing available.”

- 15) The Appellant did not have an emergent life-threatening situation without alternate heating or housing available at the time of application.

### **APPLICABLE POLICY**

The West Virginia Income Maintenance Manual (WVIMM), at §10.2, establishes the steps for determining countable income for an assistance group. All incoming monies to the assistance group (or to individuals whose income is counted for or deemed to the assistance group) is reduced by income sources excluded by policy and any income deductions or disregards applicable according to policy.

At §10.4.C.3, policy outlines the process for determining the SNAP allotment level. Countable income for SNAP and the size of the assistance group are the basis for determining a household’s monthly SNAP allotment.

Numerous sections of the WVIMM identify the policy requirement for a complete application prior to a determination of program eligibility. However, specific to the Appellant’s case, §1.22.B establishes an application for the Medicaid category under appeal as complete “when the client or his representative signs a DFA-2, DFA-5 or [Single-Streamlined Application] which contains, at minimum, the client’s name and address,” and §1.3.C establishes the DFA-SNAP-1 as a form “used for SNAP-only applications.”

At §26.2.A.3, policy requires a household to be determined vulnerable or partially vulnerable to the cost of home heating in order to qualify for LIEAP. At §26.2.A.3.d, policy indicates portable heaters are “not considered primary sources of heating except when an emergent life-threatening situation exists, the dwelling is totally without a heating source, and the [assistance group] has no alternate housing available.”

### **DISCUSSION**

The Appellant requested a fair hearing based on three decisions by the Respondent – the Respondent’s determination of her SNAP monthly allotment, the denial of a full-coverage Medicaid category based on a “spenddown,” and the denial of LIEAP benefits to the Appellant. The Respondent must show by a preponderance of the evidence that its determination of the Appellant’s monthly SNAP allotment was correct, and that its denial of Medicaid benefits and LIEAP payment to the Appellant was correct.

The Appellant offered no dispute of fact in the hearing and the Respondent clearly established its actions as correct.

SNAP benefits are determined by calculating a household's size and countable income. Countable income for SNAP is based on identifying all income that is not excluded by policy and applying deductions and disregards that are allowed by policy. The Appellant offered no dispute of these factors.

The category of Medicaid under appeal by the Appellant requires an application. There is no policy provision for a passive eligibility determination of Medicaid based on a "spenddown." The Appellant received a letter notifying her that she was denied for this Medicaid category because she simply did not apply.

Policy for LIEAP requires the applicant to establish vulnerability to heating costs as a condition of eligibility. Portable heaters, such as the "space heater" reported by the Appellant as her home heating source, are not a valid source for establishing this vulnerability except in an emergency situation as defined by policy. The Appellant did not offer testimony or evidence in support of such an emergency.

### **CONCLUSIONS OF LAW**

- 1) Because the Respondent correctly determined the Appellant's assistance group size and SNAP countable income, its determination of the Appellant's monthly SNAP allotment is correct.
- 2) Because the Appellant did not apply for a category of Medicaid which requires an application, the Respondent was correct to deny this category of Medicaid to the Appellant.
- 3) Because the Appellant did not meet the sole exception to the use of portable heaters allowed by policy, the Respondent was correct to deny LIEAP payment to the Appellant based on unmet heating cost vulnerability.

### **DECISION**

It is the decision of the State Hearing Officer to **uphold** the Respondent's determination of the Appellant's monthly SNAP allotment, to **uphold** the Respondent's denial of Medicaid benefits to the Appellant, and to **uphold** the Respondent's denial of LIEAP payment to Appellant.

**ENTERED this \_\_\_\_ Day of June 2017.**

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**Todd Thornton**  
**State Hearing Officer**