



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL

Bill J. Crouch  
Cabinet Secretary

BOARD OF REVIEW  
Raleigh County District  
407 Neville Street  
Beckley, WV 25801

Jolynn Marra  
Interim Inspector General

January 23, 2019

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.:19-BOR-1036

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,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

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

cc: Leslie Gilbert, [REDACTED] County DHHR

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BOARD OF REVIEW

██████████,

Appellant,

v.

Action Number: 19-BOR-1036

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 January 22, 2019, on an appeal filed on January 2, 2019.

The matter before the Hearing Officer arises from the January 4, 2019, decision by the Respondent to deny the Appellant's application for Low Income Energy Assistance Program (LIEAP) benefits.

At the hearing, the Respondent appeared by Leslie Gilbert, Economic Service Worker. The Appellant appeared *pro se*. Appearing as witnesses for the Appellant were ██████████, and ██████████ of ██████████. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Department's Summary
- D-2 LIEAP Application received December 17, 2018
- D-3 Receipt from ██████████ dated November 16, 2018 and Appalachian Power Electric Bill
- D-4 LIEAP Application received December 17, 2018 for ██████████
- D-5 Appalachian Power Electric Bill
- D-6 Verification Checklist dated December 27, 2018
- D-7 Verification Checklist dated December 27, 2018 for ██████████
- D-8 West Virginia Income Maintenance Manual §21.3.1.E
- D-9 Notice of Approval dated January 2, 2019 for ██████████

- D-10 Notice of Denial dated January 2, 2019
- D-11 Hearing Request Notification

**Appellant's Exhibits:**

- A-1 Notices of Supplemental LIEAP Payment dated December 14, 2017
- A-2 Notices of Approval dated November 21, 2017
- A-3 Receipts from [REDACTED]
- A-4 Invoice from [REDACTED] dated November 16, 2018
- A-5 Receipt from [REDACTED] dated January 2, 2019
- A-6 Final Divorce Decree dated April 12, 2006
- A-7 Deed of Trust dated November 21, 1996
- A-8 Photograph of [REDACTED]
- A-9 Notice of Approval dated January 2, 2019 for [REDACTED]
- A-10 Notice of SNAP Approval dated December 28, 2018
- A-11 Photograph of [REDACTED]

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 applied for LIEAP on December 17, 2018, for propane gas (Exhibit D-2).
- 2) The Appellant provided a copy of an invoice from [REDACTED] and a copy of her electric bill with the application (Exhibit D-2).
- 3) The Respondent received a LIEAP application on December 17, 2018, for the Appellant's ex-husband, [REDACTED], for propane gas (Exhibit D-4).
- 4) A copy of the Appellant's electric bill was included with Mr. [REDACTED] application, however, proof of Mr. [REDACTED] propane expense was not included (Exhibit D-4).
- 5) The Respondent requested verification of the Appellant's and Mr. [REDACTED] living situation due to the similarities on their LIEAP applications (Exhibits D-6 and D-7).
- 6) The Appellant and Mr. [REDACTED] came to the [REDACTED] County office on December 28, 2018.
- 7) The Respondent verified with [REDACTED] that the Appellant and Mr. [REDACTED] share a propane tank and have one account.
- 8) LIEAP benefits for propane gas were approved for Mr. [REDACTED] (Exhibit D-9).
- 9) LIEAP benefits for propane gas were denied for the Appellant (Exhibit D-10).

## APPLICABLE POLICY

West Virginia Income Maintenance Manual §21.3.1.B states that the LIEAP assistance group (AG) consists of any individual or group of individuals who are living together in the same dwelling and for whom residential home heating is customarily purchased in common or for whom home heating is included in a rent or mortgage payment as a specified amount. It is the responsibility of the client to list all individuals who are living in the home, regardless of whether or not they are family members or whether or not they share the cost of home heating. For the purposes of LIEAP eligibility, all household members are considered one AG.

West Virginia Income Maintenance Manual §21.3.1.C states that in order to qualify for a LIEAP payment, an AG must be determined vulnerable or partially vulnerable to the cost of home heating. Vulnerable AGs are those which must pay the primary heating cost for the home in which they reside. The expense for heating must be billed separately from the rent or mortgage payment of the residence, even if the AG combines these payments. When payments are combined, the amount billed for the heating cost must be stated on a rent receipt, lease, or other documentation. Vulnerability also exists when the AG must pay at least a part of the cost of home heating, whether they pay just part of the cost each month or alternate payments with a third-party.

West Virginia Income Maintenance Manual §21.3.1.E states that all eligible AGs are entitled to one Regular LIEAP payment per season only. Subsequent applications received from persons who have already been found eligible for or who have received a Regular LIEAP payment in that season are denied.

## DISCUSSION

Pursuant to policy, all individuals residing in the same household are in the same LIEAP assistance group. To qualify for a LIEAP payment, the assistance group must be vulnerable or partially vulnerable to the cost of home heating.

The Respondent contended that the Appellant shares her home heating expense of propane gas with [REDACTED]. LIEAP was approved in Mr. [REDACTED] case, and LIEAP was therefore denied in the Appellant's case.

The Appellant's witness, [REDACTED] of [REDACTED], testified that the Appellant and Mr. [REDACTED] will have a 120-gallon propane tank delivered to their property this spring, which will have two (2) separate lines running to their separate residences. Mr. [REDACTED] testified that currently, the Appellant and Mr. [REDACTED] each a 100-pound cylinder tank that they fill as needed. Due to their accounting software, Mr. [REDACTED] stated each propane tank is assigned an account number, which is in both the Appellant's and Mr. [REDACTED] names. Mr. [REDACTED] stated Mr. [REDACTED] will have his cylinder tank filled separately from the Appellant's, for which he purchases in cash.

The Appellant and Mr. [REDACTED] reside next door to one another, in separate dwellings, and are separate LIEAP assistance groups. Although the Appellant and Mr. [REDACTED] have ordered a propane tank that they intend to share, the tank has yet to be delivered to their properties. Credible testimony from the Appellant's witness verified that the Appellant and Mr. [REDACTED] had separate

heating systems and purchase propane gas separately. The Appellant meets the vulnerability criteria in policy to receive LIEAP.

### **CONCLUSIONS OF LAW**

- 1) Pursuant to policy, all individuals residing in the same household are in the same LIEAP assistance group.
- 2) The Appellant and [REDACTED] have separate residences adjacent to one another.
- 3) The Appellant and Mr. [REDACTED] are separate LIEAP assistance groups.
- 4) Policy requires that the assistance group must be vulnerable or partially vulnerable to the cost of home heating to receive LIEAP.
- 5) The Appellant has a separate heating system and purchases propane gas separately from Mr. [REDACTED] and is therefore vulnerable to her home heating source.
- 6) The Appellant meets the eligibility criteria to receive LIEAP.

### **DECISION**

It is the decision of the State Hearing Officer to reverse the decision of the Respondent to deny the Appellant's application for Low Income Energy Assistance Program benefits.

**ENTERED this 23<sup>rd</sup> day of January 2019.**

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**Kristi Logan**  
**State Hearing Officer**