



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of the Inspector General
Board of Review

Jeffrey H. Coben, MD
Interim Cabinet Secretary

Sheila Lee
Interim Inspector General

June 29, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 23-BOR-1851

Dear [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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

Encl: Recourse to Hearing Decision
Form IG-BR-29

cc: Trevor Wayne, Department Representative

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

IN THE MATTER OF:

ACTION NO.: 23-BOR-1851

████████████████████,

Appellant,

v.

**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 June 15, 2023, on a timely appeal filed on May 31, 2023.

The matter before the Hearing Officer arises from the May 19, 2023 decision by the Respondent to deny the Appellant's Low-Income Energy Assistance Program (LIEAP) application.

At the hearing, the Respondent appeared by Trevor Wayne. The Appellant was self-represented. All witnesses were sworn and no evidence was provided by the parties.

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 submitted an application for LIEAP on April 17, 2023.
- 2) On April 20, 2023, the LIEAP season began.

- 3) On April 28, 2023, the LIEAP season ended.
- 4) The Respondent mailed a notice to the Appellant denying his LIEAP application, on or about May 19, 2023.
- 5) The basis for the denial by the Respondent was LIEAP was out of season.

APPLICABLE POLICY

The West Virginia Income Maintenance Manual (WVIMM), Chapter 21, addresses the Low-Income Energy Assistance Program (LIEAP).

WVIMM § 21.1 provides in pertinent parts (emphasis added):

The Low-Income Energy Assistance Program (LIEAP) provides financial assistance to eligible assistance groups (AG) responsible for a home heating cost. It is not the purpose of this program to meet the entire cost of home heating during the winter season; it is designed to partially offset the cost.

The program is time-limited and dependent on the availability of federal funds. It is subject to closure without prior notice when funds are deemed to have been exhausted. Funds are normally disbursed on a first-come, first-served basis, but may also be subject to disbursement based on need. When this occurs, priority is given to those groups of clients with the greater energy burden as demonstrated by income, AG size and heating cost.

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DISCUSSION

The Appellant requested a fair hearing to appeal the Respondent's decision to deny the Appellant's application for LIEAP as being out of season. The Respondent must show, by a preponderance of the evidence, that its action to deny the LIEAP application was correct.

The Appellant applied for LIEAP on April 17, 2023. At the time, the LIEAP season was not open, and the Respondent did not process the application. On April 20, 2023, when the LIEAP season opened, the Appellant did not submit a new application, reflecting his household circumstances at that time. Policy for LIEAP clearly states that it is a time-limited program and does not offer provisions for applications submitted outside of the LIEAP season. As of April 28, 2023, when the LIEAP season ended, the Appellant still had not submitted an application within the brief period the program was open. Although the Appellant applied close to the start date of the LIEAP season, LIEAP policy indicates the program is time-limited without providing exceptions for out-of-season applications close to the program start date. After the end of the LIEAP season, the Respondent notified the Appellant that his application for LIEAP was denied because it was not submitted during the LIEAP season.

Based on the reliable testimony offered during the hearing, the Respondent was correct to deny the Appellant's application for LIEAP as being out of the LIEAP season.

CONCLUSION OF LAW

Because the Appellant's application for LIEAP was submitted prior to the season for the time-limited program, and no subsequent application was provided within the LIEAP season, the Respondent must deny the Appellant's application for LIEAP.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the decision of the Respondent to deny the Appellant's application for LIEAP.

ENTERED this _____ day of June 2023.

Todd Thornton
State Hearing Officer