



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

Sherri A. Young, DO, MBA, FAAFP  
Interim Cabinet Secretary

Sheila Lee  
Interim Inspector General

July 27, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 23-BOR-2135

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,

Eric L. Phillips  
State Hearing Officer  
Member, State Board of Review

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

cc: Carla Addair-Pruitt, WVDHHR

P.O. Box 1736 • Romney, WV 26757  
304-822-6900 • <https://www.wvdhhr.org/oig/bor.html> •  
Eric.L.Phillips@wv.gov • [DHHROIGBORE@WV.GOV](mailto:DHHROIGBORE@WV.GOV)

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

██████████,

**Appellant,**

v.

**Action Number: 23-BOR-2135**

**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 July 20, 2023, on an appeal July 5, 2023.

The matter before the Hearing Officer arises from the July 5, 2023 decision by the Respondent to deny the Appellant's application for the Emergency Low Income Energy Assistance Program.

At the hearing, the Respondent appeared by Carla Addair-Pruitt, Economic Service Supervisor. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

None

**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) The Emergency Low Income Energy Assistance Program, hereinafter Emergency LIEAP, was available for application from June 26, 2023 through June 30, 2023.
- 2) The Appellant inquired about an Emergency LIEAP application on July 5, 2023.
- 3) On July 5, 2023, the Appellant was denied the right to apply for Emergency LIEAP benefits because the program expired on June 30, 2023.

## **APPLICABLE POLICY**

West Virginia Income Maintenance Manual Chapter 1.2.1.A documents in pertinent part:

In addition to addressing all questions and concerns the client may have, the Worker must explain the benefits of each program and inform the client of his right to apply for any or all of them.

No person is denied the right to apply for any Program administered by the Division of Family Assistance (DFA) or the Bureau for Medical Services (BMS). Every person must be afforded the opportunity to apply for all Programs on the date he expresses his interest.

Certain programs, such as Children with Disabilities Community Service Program (CDCSP), Intellectual and Developmental Disabilities (I/DD) Waiver, Aged and Disabled Waiver (ADW) and Traumatic Brain Injury (TBI) Waiver, require a medical and/or other determination by a community agency or government division other than the DFA and a financial determination by an Income Maintenance Worker. When an applicant's medical eligibility for, or enrollment in, such programs is pending, he must not be refused the right to apply, but must be evaluated for any or all Department programs.

When it is not feasible for the applicant to be interviewed, if an interview is required or requested, on the date he expresses his interest, he must be allowed to complete the process at a later date. An appointment may be scheduled for his return, or the client may return at his convenience, depending upon the procedure established by the Community Services Manager (CSM). The same procedure must be used for all applicants within the county. If a follow-up appointment is scheduled and the applicant appears for the interview at the scheduled time, he must be seen on that day and not be required to return again to complete the application process.

West Virginia Income Maintenance Manual Chapter 21.3.2 documents in pertinent part:

Emergency LIEAP is the program component which assists clients in eliminating home heating crisis or emergencies.

A crisis is defined as being without home heat or being in danger of not having home heat and not having the resources to resolve the crisis without financial assistance. If the crisis threatens the loss of a utility, a past due bill or termination notice is required to be submitted with the application.

If the home heating crisis is the result of a natural disaster, state and/or national public health emergency, then payments may be issued to previously approved households. Under these circumstances, a past due bill, termination notice, or face-to-face interview is not required. If there is an intake period in which an application is required, a past due bill or termination notice may be requested, but face-to-face contact may be waived. Eligibility requirements are the same as Regular LIEAP, except for the additional requirement of verifying a heating emergency.

West Virginia Income Maintenance Manual Chapter 21.3.2.C.1 documents in pertinent part:

To qualify for Emergency LIEAP, the client must have an emergency home heating need, defined as being without home heating or in immediate danger of being without home heating and being without resources to eliminate the emergency.

### **DISCUSSION**

The Emergency Low Income Energy Assistance Program (LIEAP) is a special program operated by the West Virginia Department of Health and Human Resources (WVDHHR) which assists applicants in eliminating home heating crisis or emergencies. The Appellant contends that she was denied the right to apply for services under Emergency LIEAP and that the Respondent failed to properly notify the public of the program's availability.

The WVDHHR, by a June 22, 2023 field release, notified the public that applications for Emergency LIEAP would be accepted June 26, 2023 through June 30, 2023.

On July 5, 2023, the Appellant inquired with the Respondent regarding the availability of Emergency LIEAP and was notified that the program ended and her application was not accepted for an eligibility determination. The Appellant testified that she could not visit the local office sooner because the offices were closed on July 3 and July 4 due to a state recognized holiday for Independence Day. The Appellant testified that she was unaware that the program commenced because she has no social media presence, due to limited internet connectivity in her rural community.

Governing policy documents that no person shall be denied the right to apply for programs administered by the Division of Family Assistance. Any person who expresses an interest in

applying for all programs, must be afforded the opportunity on the date in which they express such interest. The deadline date for submission of Emergency LIEAP application was June 30, 2023, and the Appellant expressed an interest in applying for the program on July 5, 2023, five days after the program expired. No evidence was submitted to show that the Appellant had been afforded the right to apply or that a subsequent denial notice was issued to the Appellant regarding her Emergency LIEAP application. The Respondent incorrectly denied the Appellant the right to apply for the Emergency LIEAP program. However, because the deadline for submission of Emergency LIEAP applications had ended prior to the Appellant's expression of interest to apply, the Board of Review is without the authority to provide relief to the Appellant.

### **CONCLUSIONS OF LAW**

- 1) No person is denied the right to apply for any Program administered by the Division of Family Assistance (DFA) or the Bureau for Medical Services (BMS). Any applicant must be afforded the opportunity to apply for all Programs on the date they express interest.
- 2) Emergency LIEAP applications were accepted through June 30, 2023.
- 3) The Appellant expressed an interest in applying for Emergency LIEAP on July 5, 2023, five days after the expiration of the program.
- 4) The Respondent denied the Appellant's right to apply for Emergency LIEAP; however, there is no relief available to the Appellant because the application submission date for the program had expired.

### **DECISION**

It is the decision of the State Hearing Officer to affirm that the Appellant was denied the right to apply for services under the Emergency Low Income Energy Assistance Program. Because the deadline for submission of applications ended prior to the date of expressed interest, the Board of Review is without authority to provide relief to the Appellant.

**ENTERED this \_\_\_\_\_ day of July 2023.**

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Eric L. Phillips  
**State Hearing Officer**