



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

**Jeffrey H. Coben, M.D.
Interim Cabinet Secretary**

**Sheila Lee
Interim Inspector General**

March 01, 2023

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 23-BOR-1263

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,

Angela D. Signore
State Hearing Officer
Member, State Board of Review

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

cc: Rebecca Skeens, WV DHHR, [REDACTED] County

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

IN THE MATTER OF:

ACTION NO.: 23-BOR-1263

██████████,

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 February 28, 2023 on an appeal filed February 23, 2023.

The matter before the Hearing Officer arises from the February 13, 2023, decision by the Respondent to deny the Appellant's application for Emergency Assistance - Shelter.

At the hearing, the Respondent appeared by Rebecca Skeens, Economic Service Worker. Appearing as witnesses for the Respondent were Kathy Brumfield, Economic Service Supervisor; Amanda Bowman, Economic Service Worker; and Autumn Staup, Economic Service Worker. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 DFA-EA-1 Emergency Assistance Application, dated February 09, 2023
- D-2 WV PATH eligibility system printout of Case Comments, dated February 08, 2023 through February 24, 2023
- D-3 WV DHHR Notice of Decision, dated February 13, 2023
- D-4 West Virginia Income Maintenance Manual (WVIMM) §§ 20.0.0.B and 20.2.2.C
- D-5 WVIMM § 20.2.4.A through 20.2.4.A.2

Appellant's Exhibits:

- A-1 Magistrate Court of ██████████ County, WV Order of Possession/Removal, dated

A-2 February 09, 2023
Magistrate Court of ██████████ County, WV Civil Judgment Order, dated February 10, 2023

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 was a member of a five (5) person Assistance Group (AG). (Exhibits D-1 and D-2)
- 2) The Appellant applied for and received Emergency Assistance (EA) benefits for electricity on December 28, 2022. (Exhibit D-3)
- 3) On February 10, 2023, a ██████████ County Magistrate Court Clerk signed a Civil Judgment Order for Order of Possession/Removal: Wrongful Occupation of Residential Rental Property. (Exhibit A-1)
- 4) The February 10, 2023 notice ordered the Appellant to vacate and remove herself from the property no later than March 01, 2023. (Exhibits A-1 and A-2)
- 5) On February 10, 2023, the Appellant applied for EA for shelter. (Exhibit D-1)
- 6) On February 13, 2023, the Respondent issued a notice of decision informing the Appellant that her EA application for shelter was denied due to “Emergency assistance request was not received within the 30 consecutive day limit of eligibility within a 12 month period of time.” (Exhibit D-3)

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 20.2.2.B provides, in part:

EA can be authorized during one period of 30 consecutive days in any 12 consecutive months. Payments may be made to meet needs which arose before this 30-day period or needs which may extend beyond the 30-day period. The first day of the 30-day period of eligibility begins with the date the first Authorization for Payment (DFA-67) is approved for payment and ends 29 days later.

This limitation does not mean that only one item of need may be authorized during one period of 30 consecutive days in any 12 consecutive months. The applicant may request and be found eligible for more than one item of need during that period. However, when the applicant reapplies during the 30-day period of eligibility for

an item of need for which he has already received the maximum allowable payment, the application is denied.

WVIMM § 20.2.4.A.1 provides, in part:

The applicant must provide verification that a legal notice of eviction or wrongful occupation has been filed with the local magistrate. The hearing will typically be scheduled seven to ten days from the date the notice is served. The client must be encouraged to apply before the hearing date to avoid further legal action. This includes action taken against mobile homeowners who are forced to vacate their rental space.

DISCUSSION

The Emergency Assistance (EA) program is used to assist individuals and families in meeting a financial crisis when they are without available resources. EA is designed to provide short-term emergency financial assistance with which eligible individuals and families may obtain certain items or services needed to eliminate an emergency or crisis. On February 23, 2023, the Appellant requested a fair hearing to contest the February 13, 2023 decision of the Respondent to deny her application for shelter EA due to the time limitation requirement set forth by the policy. The Respondent must prove by a preponderance of the evidence that it correctly determined the time limitation application in the Appellant's case.

On February 10, 2023, the Appellant applied for EA for shelter and was denied. The Respondent argued that because the Appellant applied for and received EA for electricity on December 28, 2022, a thirty (30) day time period had elapsed and the Appellant would not be eligible for authorization of EA until December 29, 2023. The Respondent testified that had the Appellant submitted the shelter EA application prior to the thirty (30) day time period established by policy, approximately January 28, 2023, she may have been eligible.

The Appellant argued that not only was she was unaware of a thirty (30) day time period, she did not have verification of her pending eviction until February 10, 2023, at the time of application. The Appellant argued that she was provided with confusing instructions regarding her application and what was required in order to be approved, and argued that not only did she make several trips to the ██████████ County office, she alleges she was told that her application had been approved. The Appellant further testified that had she been aware of the policy, and had she known she was not approved, she may have been able to request an earlier court date in order to meet the thirty (30) day time period established by the policy. The Appellant further asked for leniency due to a slow court system and the confusion surrounding her February 10, 2023 application.

When reviewing the policy, policy mandates EA eligibility to a single period of thirty (30) consecutive days within a twelve (12) consecutive month period. Because the policy does not permit an exception to the thirty (30) day time period except in the occurrence of a natural or man-made disaster or fire, the Appellant was not eligible for EA in February 2023 and the Respondent was correct to deny the Appellant's application. It should further be noted that when considering the Appellant's allegations regarding the Respondent, no evidence was provided to the contrary

that gave more weight to refute the credibility of the Respondent's findings.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, EA eligibility is limited to a single period of thirty (30) consecutive days within a twelve (12) consecutive month period.
- 2) Because the Appellant was approved for EA on December 28, 2022, and because she did not meet an exception to the policy, the time period for continued eligibility expired thirty (30) consecutive days later, approximately January 28, 2023.
- 3) Because the Appellant's time period for continued EA eligibility expired on or around January 28, 2023, the Appellant's application for shelter EA made on February 10, 2023, must be denied.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to deny the Appellant's February 10, 2023 application for Emergency Assistance - Shelter benefits.

ENTERED this 1st day of March 2023.

Angela D. Signore
State Hearing Officer