



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

March 21, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 23-BOR-1377

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, DHHR

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

IN THE MATTER OF:

ACTION NO.: 23-BOR-1377

██████████,

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 March 21, 2023, on a timely appeal filed March 15, 2023.

The matter before the Hearing Officer arises from the January 25, 2023 decision by the Respondent to deny Emergency Assistance (EA) benefits to the Appellant.

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

EXHIBITS

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 Appellant applied for Emergency Assistance (EA).
- 2) The Appellant's household and assistance group (AG) size is one (1).
- 3) The Respondent denied the Appellant's application for EA.
- 4) The Appellant receives income from the Social Security Administration (SSA).
- 5) The Appellant's income from the SSA is his sole source of income.
- 6) The Respondent maintains a data exchange with the SSA to confirm income amounts of Social Security recipients.
- 7) The Appellant receives \$1034 in monthly gross income from the SSA.
- 8) The Appellant has reductions or garnishments from his gross Social Security amount, for child support and an outstanding benefits overpayment.
- 9) The monthly gross income of the Appellant exceeds the EA income limit for a household size of one (1).

APPLICABLE POLICY

The policy regarding the Emergency Assistance (EA) Program is located in the West Virginia Income Maintenance Manual (WV IMM), Chapter 20.

At §20.2.2.F.1, this policy addresses income, and reads, "The Worker must determine availability of income to the applicant and all other members of the [assistance group]. All countable **gross income** received by any member of the [assistance group], beginning with date of application and ending 29 days later, must be counted in determining eligibility for EA." (emphasis added)

Chapter 4, Appendix A, of the WV IMM provides a table of income limits. The income limit for EA for a household of one (1) is \$861 monthly.

DISCUSSION

The Appellant requested a fair hearing to appeal the Respondent's decision to deny his application for the Emergency Assistance (EA) program due to excessive income. The Respondent must show by a preponderance of the evidence that the Appellant's income was over program limits.

The Appellant has a household size of one (1), and his sole source of income is Social Security

benefits. This income source is verified directly from the Social Security Administration (SSA) as \$1034 monthly, before reductions or garnishments. Policy requires gross income to be used in determining program eligibility. The Appellant's monthly gross income of \$1034 exceeds the \$861 limit set for the EA program for a household size of one (1).

The Appellant testified that he receives income of approximately \$800 per month after approximately \$309 in child support, and approximately \$25 to \$30 for repayment, have been taken out of his check. The net amount reported by the Appellant cannot be considered, but does suggest a gross amount similar to the Respondent's determination of his gross income, and a total gross income far over the \$861 limit set by policy.

With gross income clearly over the limit set by policy, the Respondent correctly denied EA benefits to the Appellant due to excessive income.

CONCLUSIONS OF LAW

- 1) Because the policy for EA requires an income test using gross income, the Appellant's monthly household income is \$1034.
- 2) Because the Appellant's monthly household income is \$1034 and his household size is one (1), the Respondent correctly determined the Appellant's household to be over the income limit of \$861 for EA.
- 3) Because the Appellant has excessive income for the EA program, the Respondent correctly denied EA payment to the Appellant.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the decision of the Respondent to deny the Appellant's application for the Emergency Assistance (EA) Program due to excessive income.

ENTERED this _____ day of March 2023.

**Todd Thornton
State Hearing Officer**