



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

April 6, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-1613

Dear Mr. [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: Debra Belcher, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

Action Number: 16-BOR-1613

**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 April 6, 2016, on an appeal filed April 1, 2016.

The matter before the Hearing Officer arises from the March 24, 2016 decision by the Respondent to deny the Appellant's application for Emergency Assistance benefits.

At the hearing, the Respondent appeared by Debra Belcher, 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 Hearing Summary
- D-2 Hearing Request received April 1, 2016
- D-3 Hearing Request Notification
- D-4 Scheduling Order
- D-5 Notice of Denial dated March 24, 2016
- D-6 Case Comments from February 2016-April 2016
- D-7 Emergency Assistance Application dated February 17, 2016 and Referral to the Salvation Army
- D-8 Request for Replacement/Supplement of Food Purchased with SNAP Benefits dated February 17, 2016
- D-9 Verification Checklist dated February 17, 2016
- D-10 Report from ██████████ Fire Department dated February 14, 2016
- D-11 West Virginia Income Maintenance Manual §19.2C

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 (D-7) for Emergency Assistance with household items/supplies due to a house fire on February 17, 2016.
- 2) The Department requested (D-9) that the Appellant provide a copy of the Fire Marshall's report to complete the Emergency Assistance application by February 27, 2016.
- 3) The Appellant submitted a copy of the report (D-10) received from the [REDACTED] Fire Department to the Department on February 24, 2016.
- 4) The Department notified (D-5) the Appellant on March 24, 2016, that his application was denied for his failure to provide verification of cooperation in relieving the emergency.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §19.2B(14) states that man-made disasters are catastrophic events and are limited only to fire, explosions, falling objects, exposure to toxic elements such as gas, chemicals or other poisonous substances and dangerous situations created by automobile, airplane and train crashes.

In order to be eligible for payment, the emergency need must have been created by any of the catastrophic events referred to above.

When an applicant requests Emergency Assistance as a result of a fire that has destroyed the applicant's living quarters, the Worker must verify through a collateral contact with the local fire department that the fire did occur and that the item of need was destroyed.

West Virginia Income Maintenance Manual §19.2C(1)(c) states that when the Worker does not have sufficient information to make a decision, it is necessary to complete Form DFA-6 or verification checklist to inform the applicant of the additional information needed. All requests for verification must be made using the DFA-6 form and/or verification checklist.

The Worker must clearly state on the form [emphasis added] what items must be returned by the applicant, as well as the date by which the information must be returned.

The failure to return information or the return of incomplete or incorrect information that prevents a decision from being made on the application will be considered failure to provide verification and will result in a denial of the application.

West Virginia Income Maintenance Manual §19.2C(2) states that the Worker must conduct the intake interview for the purpose of obtaining a thorough knowledge of the applicant's current financial situation and to determine if the applicant meets the eligibility requirements of the Program and of the specific item(s) of need for which he is requesting payment.

The time limitations must be explained to the applicant during the intake interview. When the applicant is not currently receiving any type of assistance from the Department, the Worker should give particular attention to the possibility of the applicant's eligibility for regular financial or Medicaid assistance and/or SNAP benefits. The intake process ends when the Worker has gained sufficient information from which he can make a decision on the application.

West Virginia Common Chapters Manual §710.14A states, that adequate notice of a Departmental decision affecting benefits, or EBT adjustments, shall be mailed via first class mail, or provided in writing in a face-to-face contact, to the applicant or recipient and must include the following information:

1. The action or proposed action to be taken;
2. The reason(s) for the action provided in terms readily understandable by the applicant or recipient and specifying all applicable policy manual sections;
3. The right to a fair hearing;
4. The time period for requesting a hearing;
5. The circumstances under which assistance may be continued pending a hearing decision;
6. Notice that the Appellant may be required to refund any assistance rendered during the hearing process if the Hearing Official upholds the Department's decision;
7. Notice that a pre-hearing conference will be held for the applicant or recipient if he or she requests one in order to discuss the adverse action taken;
8. The right to be assisted by a person of the applicant's or recipient's choice, including legal counsel, at any pre-hearing conference and hearing;
9. The fact that the applicant or recipient may bring witnesses to the hearing at the applicant's or recipient's own expense; and
10. The names, addresses, and phone numbers of any legal service organizations serving the area in which the applicant or recipient resides.

DISCUSSION

The Department contended that the Appellant's application was denied because when he submitted the pending verification, he did not stay to meet with a caseworker to sign the Emergency Assistance voucher. A caseworker reportedly left a message for the Appellant to return to the office and sign the voucher, and denied the application when he failed to do so.

The Appellant argued he was unaware that he had to meet with a caseworker after the initial application was completed and purported that he never received a message requesting that he return to the office.

The Appellant complied in providing the verification requested by the Department within the time frames as specified on the checklist provided during his application. The verification checklist did not indicate that he was required to return the pending verification in-person, or that he was required to meet with a caseworker to complete the application process. Additionally, policy does not stipulate that face-to-face contact is required after the initial interview is completed as a condition of eligibility for Emergency Assistance benefits.

The Department had the responsibility to notify the Appellant of any and all information that was needed to make a determination of eligibility, and if his signature on the Emergency Assistance voucher was required to be made while at the local office, this requirement should have been provided to the Appellant in writing.

CONCLUSIONS OF LAW

- 1) The Appellant provided the information that was requested by the Department to determine his eligibility for Emergency Assistance benefits within the time frame as dictated in policy and outlined on the verification checklist.
- 2) The Department erred in the denial of the Appellant's application for Emergency Assistance benefits.

DECISION

It is the decision of the State Hearing Officer to **reverse** the Department's denial of the Appellant's application for Emergency Assistance.

ENTERED this 6th day of April 2016

**Kristi Logan
State Hearing Officer**