



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL

Bill J. Crouch  
Cabinet Secretary

BOARD OF REVIEW  
Raleigh County District  
407 Neville Street  
Beckley, WV 25801

Jolynn Marra  
Interim Inspector General

July 13, 2020

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 20-BOR-1835

Dear Ms. [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: Margaret Fain, [REDACTED] County DHHR

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

████████████████████,

**Appellant,**

v.

**Action Number: 20-BOR-1835**

**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 10, 2020, on an appeal filed July 7, 2020.

The matter before the Hearing Officer arises from the July 6, 2020, decision by the Respondent to deny the Appellant's application for Emergency Assistance.

At the hearing, the Respondent appeared by Margaret Fain, Economic Service Supervisor. The Appellant appeared *pro se*. Both 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 Appellant applied for Emergency Assistance benefits for shelter on June 17, 2020.
- 2) The Appellant was evicted from her residence on June 17, 2020.
- 3) The Appellant's Emergency Assistance application was pended for a statement signed by a landlord who would accept the Emergency Assistance voucher for rent.
- 4) The Respondent issued a verification checklist and the Authorization for Payment form a new landlord to be returned no later than June 22, 2020.
- 5) The Appellant's application for Emergency Assistance was denied on June 23, 2020 when she failed to return the requested information.
- 6) The Appellant reapplied for Emergency Assistance for shelter on July 6, 2020 and provided information for a new landlord.
- 7) The Respondent denied the Appellant's application on July 6, 2020 as the Appellant was homeless on the date of application.
- 8) A referral was made for the Appellant to the Homeless Program.

## **APPLICABLE POLICY**

West Virginia Income Maintenance Manual §20.2.3.A.3 states 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 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 §20.2.3.E states the Worker must approve or deny the application in the eligibility system. A decision must be made on all applications as soon as possible, if the emergency currently exists, or prior to an imminent emergency but no later than three business days from the date of application.

West Virginia Income Maintenance Manual §§20.2.4 and 20.2.4.A.1 states "Homeless" applicants who are referred to the EA must be:

- Facing or in immediate danger of becoming homeless; or
- Homeless transients for which transportation arrangements to their communities are incomplete; or

- Applicants rendered homeless because their living quarters have been destroyed.

All other applicants who are identified as homeless using the definition provided in Chapter 33,000 of the Social Services Manual, are referred to the Homeless Program. That definition of homeless is when a person does not have access to nor the resources to obtain shelter.

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 10 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. If the client does not apply until after the hearing and must vacate the residence, alternative housing must be explored, if the client is otherwise eligible. If he is rendered homeless before the date of application, he is not eligible for EA and must be referred to the Homeless Program.

The definition of EA eligible homeless shall include only the following circumstances:

- Homeless transients for which transportation arrangements to their communities are incomplete; or
- Applicants rendered homeless because their living quarters have been destroyed.

### **DISCUSSION**

Pursuant to policy, if an applicant is rendered homeless before the date of the Emergency Assistance application, he or she is not eligible for Emergency Assistance and must be referred to the Homeless Program.

The Appellant was evicted from her residence on June 17, 2020 and has remained homeless as of the date of the hearing. The Appellant applied for Emergency Assistance on June 17, 2020 but the application was denied when she failed to provide information regarding a new landlord who would be willing to accept the Emergency Assistance payment by the established due date. The Appellant's subsequent July 6, 2020, application was denied as she had been homeless since June 17, 2020.

The Appellant contended that she was unaware that she only had three (3) days to secure a new landlord when she applied in June 2020 and had difficulty finding housing in her area. The Appellant testified that she was advised by a worker that she had thirty (30) days to provide information for a new landlord during a phone conversation on June 22 when she questioned the due date on the Authorization for Payment form. The Appellant purported that because she was given incorrect information about the application process, she was unable to receive Emergency Assistance when she reapplied in July.

The Appellant initially applied for Emergency Assistance on the effective date of her eviction on June 17, 2020. Regardless of whether the Appellant received contradictory information concerning the due date of a new landlord, action to approve or deny an Emergency Assistance application

must be taken within three days of the date of application and the Respondent correctly denied the June 17, 2020 application when the requested information had not been received. Policy specifically excludes the approval of Emergency Assistance for individuals who are deemed homeless prior to the date of the application for shelter, therefore, the Respondent correctly denied the Appellant's July 6, 2020 application.

### **CONCLUSIONS OF LAW**

- 1) Pursuant to policy, if an applicant is rendered homeless before the date of the Emergency Assistance application, he or she is not eligible for Emergency Assistance for shelter.
- 2) The Appellant was evicted on June 17, 2020 and has remained homeless as of the date of the hearing.
- 3) The Respondent acted in accordance with policy in the denial of the Appellant's application for Emergency Assistance for shelter.

### **DECISION**

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to deny the Appellant's application for Emergency Assistance for shelter.

**ENTERED this 13<sup>th</sup> day of July 2020.**

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**Kristi Logan  
State Hearing Officer**