



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

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Cabinet Secretary

Board of Review
State Capitol Complex
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June 18, 2019

Jolynn Marra
Interim Inspector General



RE: [REDACTED] v. WV DHHR
ACTION NO.: 19-BOR-1880

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Patricia White, Department Representative

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

BOARD OF REVIEW

████████████████████

Appellant,

v.

Action Number: 19-BOR-1880

**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 June 17, 2019, on an appeal filed June 10, 2019.

The matter before the Hearing Officer arises from the Respondent's June 11, 2019 decision to deny the Appellant's application for Emergency Assistance (EA) payment.

At the hearing, the Respondent appeared by Patricia White. Appearing as witnesses for the Respondent were Gilda Bodrogi and Vanessa Nutter. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

- D-1 Emergency Assistance (EA) application documents for the Appellant
Date signed: June 18, 2018
- D-2 Notice of 2018 EA approval, dated June 19, 2018
- D-3 Screen print from the Respondent's data system regarding the Appellant's EA
eligibility status
- D-4 West Virginia Income Maintenance Manual (WVIMM)
Chapter 20, §20.1 (excerpt)

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 on June 18, 2018. (Exhibit D-1)
- 2) By notice dated June 19, 2018, the Respondent advised the Appellant that he was approved for EA and reads, in part, "Your application dated 06/18/18 for Emergency Assistance for Electric has been approved." (Exhibit D-2)
- 3) The Appellant applied for Emergency Assistance on June 10, 2019.
- 4) By notice dated June 11, 2019, the Respondent advised the Appellant that he was denied for EA and reads, in part, "Your Emergency Assistance application dated 06/10/19 for Emergency Assistance for Electric has been denied." (Exhibit D-5)
- 5) This notice (Exhibit D-5) provided the reason for denial as, "Emergency Assistance request was not received within the 30-consecutive day limit of eligibility within a 12 month period of time."

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM), at §20.1, defines the "time limitation" for EA policy purposes as, "The federally-mandated requirement that Emergency Assistance (EA) can be authorized just once to an eligible client for emergency situations during one 30-consecutive day period in any 12 consecutive months."

At §20.2.2.B, the WVIMM policy further outlines the time limitation requirement as follows:

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 (DF-67) is approved for payment and ends 29 days later.

DISCUSSION

The Appellant requested a hearing to contest the decision of the Respondent to deny his application for EA payment. The Respondent denied this application due to the time limitation requirement set in EA policy. The Respondent must show by a preponderance of the evidence that it correctly determined the time limitation applicable in the Appellant's case.

The Appellant applied for EA in 2018 and was approved for payment on June 18, 2018. Policy clearly limits EA eligibility to "one period of 30 consecutive days in any 12 consecutive months." The Appellant applied for EA again on June 10, 2019 and was denied because the June 10, 2019 application was within 12 consecutive months of June 18, 2018.

The Appellant was hostile, incoherent and unconvincing throughout the hearing. The Appellant failed to establish that his 2019 application for EA was more than 12 consecutive months from the 2018 application. During the hearing, the Appellant seemed to have been requesting the Respondent make a "pledge" to a vendor, regardless of his EA eligibility status. A "pledge" is not a benefit itself, but rather the informal term for a commitment from a Respondent worker to the EA vendor that precedes the payment voucher but not the eligibility determination (Chapter 20 of the WVIMM, the policy section addressing the EA program, does not define or otherwise mention the term). A request for the Respondent to "pledge" an EA payment while an individual is ineligible for EA is a request for the Respondent to explicitly lie to the EA vendor. The Board of Review is neither authorized to grant such a request nor to ignore the policy requirement that clearly supports the Respondent's denial of the Appellant's June 10, 2019 application for EA.

CONCLUSIONS OF LAW

- 1) Because the Appellant was approved for EA on June 18, 2018, he may not be approved for any subsequent EA request within 12 consecutive months of that date.
- 2) Because the Appellant made a subsequent application for EA on June 10, 2019, this application must be denied.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Respondent's decision to deny the Appellant's application for EA due to the time limitations set by EA policy.

ENTERED this ____ Day of June 2019.

**Todd Thornton
State Hearing Officer**