



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

Bill J. Crouch
Cabinet Secretary

BOARD OF REVIEW
4190 Washington Street, West
Charleston, West Virginia 25313
Telephone: (304) 352-0805 Fax: (304) 558-1992

Jolynn Marra
Interim Inspector General

December 06, 2021

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 21-BOR-2443

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

cc: Peter VanKleeck, WV DHHR, [REDACTED]
Cheryle Lippman, WV DHHR, [REDACTED]

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

██████████,

Appellant,

v.

Action Number: 21-BOR-2443

**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 December 06, 2021.

The matter before the Hearing Officer arises from the December 01, 2021, decision by the Respondent to deny the Appellant's application for Emergency Assistance - Shelter.

At the hearing, the Respondent appeared by Peter VanKleeck, Family Support Supervisor. Appearing as a witness for the Respondent was Cheryle Lippman, Investigator, Front End Fraud Unit. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Department Summary
- D-2 Notice of Decision, dated November 18, 2021
- D-3 West Virginia Income Maintenance Manual (WVIMM) § 10.4.2.B.1
- D-4 DFA-EA-1 Emergency Assistance Application, dated November 29, 2021
- D-5 Order of Possession/Removal: Wrongful Occupation of Residential Rental Property from the Berkeley County, West Virginia Magistrate Court dated November 08, 2021
- D-6 Notice of Decision, dated December 02, 2021
- D-7 WVIMM § 20.2.2.F.1
- D-8 WVIMM § 20 Appendix A

- D-9 Copy of signed lease agreement provided to the Department by [REDACTED], dated September 01, 2021 - Employers Redacted
- D-10 Copy of original lease agreement obtained by Cheryle Lippman, dated September 01, 2021 - Non-Redacted
- D-11 Signed Statement provided by [REDACTED], dated November 15, 2021
- D-12 Signed Witness Statement provided by Appellant's Landlord, dated December 01, 2021

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 was a member of a three (3) person Assistance Group (AG).
- 2) On October 13, 2021, the Appellant's case was referred to the Front-End Fraud Unit and an investigation was opened due to an allegation of a greater household composition than previously reported.
- 3) On November 08, 2021, a [REDACTED] Magistrate Court Clerk signed a Civil Summons for Wrongful Occupation of a Residential Rental Property. (Exhibit D-5)
- 4) The November 08, 2021 notice ordered the Appellant to vacate and remove herself from the property no later than November 30, 2021. (Exhibit D-5)
- 5) On November 15, 2021, by way of a written and signed statement provided by the Appellant, the Front-End Fraud Unit Investigator determined through the course of the investigation that the Appellant's household consisted of an eight (8) person AG and requested that reported income in the amount of \$4562.57 be added to the Appellant's case. (Exhibit D-11)
- 6) On November 18, 2021, the Respondent issued a notice of decision to the Appellant informing her that effective December 01, 2021, her benefits would be terminated due to excessive income. (Exhibit D-2)
- 7) The Appellant applied for Emergency Assistance (EA) benefits for shelter on November 29, 2021, due to the receipt of an eviction order received on November 08, 2021. (Exhibit D-4)
- 8) On December 02, 2021, the Appellant was denied EA - Shelter due to excessive income. (Exhibit D-6)

9) The Monthly Allowable Income for an EA - Shelter benefits for an AG size of eight (8) is \$1496. (Exhibit D-8)

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 20.2.2.F.1 Income Policy provides, in part:

The Worker must determine availability of income to the applicant and all other members of the AG. All countable gross income received by any member of the AG, beginning with date of application and ending 29 days later, must be counted in determining eligibility for EA.

When considering countable income to determine eligibility, the Worker must use the following guidelines:

- Verification must be requested for the following:
 - Income that has not been verified in the 30 days prior to the date of application; and
 - Changes in income.
- The total countable gross income of all members of the AG is compared to the Monthly Allowable Income Schedule in Appendix A.
- Income received prior to the 30-day period of consideration is an available asset if retained in the 30-day period of consideration.

WVIMM § 20.2.2.F.2 Determination of Countable Income provides, in part:

The total countable income of the entire AG must be considered, regardless of when the income is actually received in the 30-day period of income consideration.

WVIMM § 20.2.3.D The AG provides, in part:

The AG consists of one or more persons who live together.

WVIMM § Chapter 20 Appendix A, provides in part:

The Monthly Allowable Income for an AG size of eight (8) is \$1496.

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 October 13, 2021, an investigation was opened due to an allegation received by the Front-End Fraud Unit, advising the Appellant's AG consists of a greater household composition than previously reported. On November 15, 2021, Investigator Cheryle Lippman (Ms. Lippman) completed a visit to the Appellant's home address. By way of a written and signed statement provided by the Appellant, the Front-End Fraud Unit Investigator determined through the course of the investigation that the Appellant's household consisted of an eight (8) person AG with a household income reported in the amount of \$4562.57. Ms. Lippman testified the Appellant reported that all household members purchased and prepared meals together and had no shelter and/or utility costs. In addition to the Appellant's written/signed statement, Ms. Lippman obtained a copy of the Appellant's lease agreement signed on September 01, 2021, along with a written and signed statement provided by the Appellant's former Landlord that the household composition consisted of a greater amount than previously reported (3). Included on the signed September 01, 2021 lease agreement were employers of [REDACTED], as provided by the Appellant. As a result of the investigative findings, Ms. Lippman requested that all reported household members and income be added to the Appellant's case. It should be noted that the income amount added to the Appellant's case was verified through data exchange with the Social Security Administration and Veterans Affairs benefits data exchange.

The Appellant argued that she, nor her spouse, are working and has "no idea" where the reported places of employment "come from." She further denied that daughter [REDACTED] was residing in her home; she did not, however, deny the Department's findings of an eight (8) person AG. The Appellant additionally stated that the only reason she reported the household composition and income amounts provided during the November 15, 2021 visit was due to being under the impression Ms. Lippman was investigating a previously reported incident involving her granddaughter. By the Appellant's own admission, if she better understood the reason for the visit, she would have reported her household composition and income differently.

Policy mandates that the income of all members of the Assistance Group must be counted when determining eligibility for Emergency Assistance benefits. The Appellant's reported income is in excess for her to receive Emergency Assistance benefits. Although the Appellant now denies her self-reported income, no evidence was provided to the contrary that gave more weight to refute the credibility of the Department's findings or her own admission.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, an AG consists of one (1) or more persons who live together.
- 2) At the time of the Respondent's December 02, 2021 denial of Emergency Assistance (EA) eligibility, the Appellant's household consisted of an eight (8) person AG.

- 3) Pursuant to policy, the total countable income of the entire AG must be considered, regardless of when the income is actually received in the 30-day period of income consideration.
- 4) The Monthly Allowable Income for an AG size of eight (8) is \$1496.
- 5) The Appellant's household income is in excess of the limit established by policy to receive EA benefits.
- 6) The Department was correct to deny the Appellant's application for EA benefits due to excessive income.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to deny the Appellant's November 29, 2021 application for Emergency Assistance - Shelter benefits.

ENTERED this 6th day of December 2021.

Angela D. Signore
State Hearing Officer