



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

Bill J. Crouch  
Cabinet Secretary

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

Sheila Lee  
Interim Inspector General

November 30, 2022

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 22-BOR-2525

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,

Kristi Logan  
Certified State Hearing Officer  
Member, State Board of Review

Encl: Recourse to Hearing Decision  
Form IG-BR-29

cc: Angela Mitchem, [REDACTED] DHHR

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

██████████,

**Appellant,**

v.

**Action Number: 22-BOR-2525**

**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 November 30, 2022, on an appeal filed November 28, 2022.

The matter before the Hearing Officer arises from the November 14, 2022, decision by the Respondent to deny the Appellant's application for Emergency Assistance benefits for natural gas and electricity and the November 29, 2022, decision to deny the Appellant's application for Emergency Assistance for electricity.

At the hearing, the Respondent appeared by Angela Mitchem, Economic Services Supervisor. The Appellant was self-represented. The witnesses were sworn in, 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 (EA) benefits for natural gas and electricity on November 10, 2022.
- 2) The Respondent confirmed with the electric company that due to a medical emergency, the Appellant's termination for electricity had been extended for thirty (30) days.
- 3) The Respondent confirmed with the gas company that due to a payment arrangement, the Appellant was no longer in termination status.
- 4) The Respondent notified the Appellant on November 14, 2022, that her application for EA benefits for natural gas and electricity had been denied.
- 5) The Appellant reapplied for EA benefits for electricity on November 22, 2022.
- 6) The Respondent verified with the electric company that the Appellant's termination notice was a ninety (90) day past due balance of \$98.04. Payment of \$98.04 was required to eliminate the termination.
- 7) The Respondent requested the Appellant provide verification that the (60) day portion of the electric bill (\$65.36) had been paid by November 24, 2022, or the application would be denied.
- 8) The Respondent denied the Appellant's November 22, 2022, application for EA benefits when the verification had not been received.

## **APPLICABLE POLICY**

West Virginia Income Maintenance Manual Chapter 20 explains eligibility for Emergency Assistance:

### **20.2.2.A Emergency Need Requirement**

An applicant who meets the definition of being faced with an emergency need is one who:

- Is faced with an existing or imminent crisis of a nature that threatens the physical health, safety, and well-being of the applicant and his family; and
- Is without available resources with which he can immediately eliminate an existing crisis or prevent an imminent crisis. When the applicant fails to meet either or both requirements indicated above, the application is denied.

### **20.2.2.M Defining the Elimination of the Emergency/Vendor Refuses to Eliminate the Emergency**

"Eliminate the Emergency" is defined as delaying or preventing the emergency from occurring for a period of not less than 30 days from the date the vendor is made aware of and accepts the DHHR's offer. The client must be informed of this so there is no misunderstanding about how long the

emergency will be delayed. This time period is most important for rent and utilities. The client must be informed that the DFA-67 voucher must be taken to the vendor without delay, if applicable. When the client is otherwise eligible for or approved for EA, yet the vendor refuses to eliminate the emergency, payment must be denied to the vendor. This may occur when the vendor is not satisfied with the amount of payment. Payment is not made to any vendor who refuses to eliminate the emergency. When a vendor refuses to eliminate the emergency, the application is denied only when another vendor cannot be located by the applicant and/or Worker to eliminate the emergency.

#### **20.2.4.B.2 General Requirements**

Payment may be authorized for clients who are without utility services or who face imminent termination of these services. When a utility service, other than telephone service, has been disconnected, the application for EA must be made within 30 days of the date the service was terminated to meet the emergency need requirement described in Section 20.2.2.A.

#### **20.2.4.B.3 Determining the Amount of Payment**

In determining the amount of payment, the Worker must consider the following:

- The type of utility service being requested for payment.
- The amount of the overdue utility bill which covers a billing period up to 30 days.
- The average daily amount of the overdue bill when the overdue billing period exceeds 30 days.
- Reconnection charges required by the utility provider when the service was terminated in the 30 days prior to the date of application.
- Service charges required by the utility provider to start service in new living quarters when the applicant moved to new housing due to eviction, fire, condemnation, etc., or some other emergency that has forced the applicant to move.
- Late fees added to delinquent or overdue payments are considered as part of the overdue bill and are not deducted from the overdue bill when computing the average daily amount.
- Payments made by the client in an attempt to reduce or eliminate the overdue bill are not deducted from the ongoing overdue bill when computing the average daily amount.
- The amount of any one-time payment, such as from the Low-Income Energy Assistance Program (LIEAP) or a community agency made or that will be made, but not yet credited to the account, is not deducted from the ongoing overdue bill when computing the average daily amount. It is subtracted from the minimum payment due before determining the amount the DHHR will pay through the EA program. The Worker must inform the company of the pending payment from the other source and determine if this will prevent the emergency. If so, the EA application is denied. However, the receipt of EA does not affect eligibility for Emergency LIEAP.
- Regular monthly payments made on behalf of the client from other agencies, plus reductions from the 20% utility discount program are deducted from the ongoing overdue bill before computing the average daily amount.

#### **Payment Amount for Gas, Electric, Water and Sewage**

When the client is eligible to receive payment for any of the utility services indicated above, the Worker must consider the following:

- When the overdue amount covers a billing period up to 30 days, the Worker shall authorize payment for the 30-day amount to the vendor.
- When the overdue amount covers a billing period greater than 30 days, the Worker determines the average daily amount of the overdue bill. The average daily amount multiplied by 30 days is the maximum amount of the EA payment. Utility bills often have an overdue amount and an amount labeled "due." The "due" amount is not considered for payment nor is this amount used to calculate the amount of the payment.

The Worker must explain to the applicant that payment may be made up to the calculated maximum amount. The Worker must contact the utility provider to determine if this payment will eliminate the emergency. The Worker must inform both the applicant and the provider that payment of the remaining balance must be worked out between the provider and the applicant. The Worker is not involved in these negotiations.

### **DISCUSSION**

Pursuant to policy, the maximum EA amount that can be authorized covers a 30-day billing period. If the billing period exceeds 30 days, an average daily amount of the overdue bill is calculated and only the 30-day amount can be paid through EA benefits. If the utility vendor refuses to accept the 30-day EA benefit to eliminate the emergency, the application is denied.

The Respondent denied the Appellant's November 10, 2022, application for EA benefits for natural gas and electricity as the Appellant was not in a current termination status for either utility. The Respondent denied the Appellant's November 22, 2022, EA application for electricity as the electric company would not accept a 30-day payment to prevent termination.

The Appellant testified that she attempted to apply for EA benefits in early November 2022 but was advised at the local office that the computers were offline and EA applications could not be accepted or approved. The Appellant contended that she was advised to make a payment arrangement with the gas company and contact community resources for assistance. The Appellant stated when she applied on November 10, 2022, she was no longer considered as being in an emergency situation due to the payment arrangement with the gas company. The Appellant's physician notified the electric company that she used medical equipment that was reliant on electricity and was granted a 30-day extension. The Appellant argued that there are no community resources available to assist with her 60-day portion of the electric bill and although she does not have a current gas termination notice, her overdue balance is accumulating.

A condition of eligibility for EA benefits is that the applicant must have an existing or imminent crisis. At the time of the November 10, 2022, EA application, termination of the Appellant's gas and electricity had been extended, therefore the Appellant did not meet the emergency need requirement. Whereas the Appellant did not have an imminent emergency at the time of the November 10, 2022, EA application, the Respondent's decision to deny the Appellant's application is affirmed.

When the Appellant reapplied for EA benefits for electricity on November 22, 2022, the Appellant

had a 90-day overdue bill. EA benefits cannot be approved if the vendor refuses to accept a 30-day payment amount to alleviate the emergency. The Appellant failed to pay, or have paid on her behalf, the 60-day portion of the overdue electric bill and the electric company would not accept partial payment to prevent termination. Whereas a 30-day payment amount would not alleviate the emergency, the Respondent's decision to deny the Appellant's November 22, 2022, EA application is affirmed.

### **CONCLUSIONS OF LAW**

- 1) An applicant for EA must have an existing or imminent crisis to be eligible for benefits.
- 2) The Appellant was not in current termination status at the time of her November 10, 2022 EA application for natural gas and electricity.
- 3) The maximum payment amount that can be authorized through EA is a 30-day amount.
- 4) The Appellant had a 90-day overdue electric bill when she reapplied for EA on November 22, 2022.
- 5) The electric company would not accept the EA 30-day payment to alleviate the emergency.
- 6) The Appellant was unable to pay, or have paid on her behalf, the remaining 60-day portion of the bill.
- 7) The Respondent acted in accordance with policy in the denial of the Appellant's November 10 and November 22, 2022, EA applications.

### **DECISION**

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to deny the Appellant's November 10 and November 22, 2022, applications for Emergency Assistance.

**ENTERED this 30<sup>th</sup> day of November 2022.**

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**Kristi Logan  
Certified State Hearing Officer**