



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
P.O. Box 1247
Martinsburg, WV 25402

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

October 24, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-2631

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,

Lori Woodward
State Hearing Officer
Member, State Board of Review

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

cc: Tera Pendleton, BCF, [REDACTED] Co. DHHR

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

██████████,

Appellant,

v.

Action Number: 17-BOR-2631

**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 October 24, 2017, on an appeal filed October 16, 2017.

The matter before the Hearing Officer arises from the Respondent's October 17, 2017 denial of Emergency Assistance (EA) application.

At the hearing, the Respondent appeared by Tera Pendleton, Economic Service Worker. The Appellant appeared *pro se*. The witnesses were sworn and the following documents were admitted into evidence:

Department's Exhibits:

- D-2 Application for Emergency Assistance dated October 16, 2017 and copy of Appalachian Power Final Bill with due date of June 1, 2017
- D-3 Unearned Income screen print from the Appellant's eRAPIDS case
- D-4 Notification of denial dated October 17, 2017
- D-5 Emergency Assistance screen print from the Appellant's eRAPIDS case
- D-6 WV Income Maintenance Manual Chapter 4, Appendix A

Note: Department Exhibit D-1 was not entered into the record because it was illegible.

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) On October 16, 2017, the Appellant applied for EA benefits for an outstanding electric bill. (Exhibit D-2)
- 2) The Appellant receives Social Security Income of \$735 per month. (Exhibit D-3)
- 3) There is no one else in the Appellant's household.
- 4) The income limit for a one-person household for EA is \$355 per month. (Exhibit D-6)
- 5) Notice of EA application denial was sent to the Appellant on October 17, 2017. (Exhibit D-4)

APPLICABLE POLICY

The availability of income to the applicant and all other members of the Assistance Group (AG) must first be determined. 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. The only income deductions permitted are for those persons who are self-employed. The total countable gross income of all members of the AG is compared to the Monthly Allowable Income Schedule in Appendix A. (W.Va. Income Maintenance Manual (IMM) §20.2.2.F.)

IMM Chapter 20, Appendix A sets forth the income limits for Emergency Assistance eligibility. See also Chapter 4, Appendix A. For AG's of 1 the income limit is \$355.

DISCUSSION

The Appellant applied for EA benefits on October 16, 2017. The Appellant receives \$735 per month in Social Security Income and is the only person in the household. The gross income limit for EA eligibility for an AG of one is \$355. Therefore, the Respondent denied the Appellant's EA application and sent him notice of the denial on October 17, 2017.

The Appellant did not dispute the income amount used, but avers he is suffers day-to-day hardships without having electricity in his home. He testified he has contacted several community organizations who have been unable to assistance him.

Although, it is understandable that without electricity, the daily activities of living are difficult, if not impossible, per policy, the Appellant is over income for EA benefit eligibility. The Board of Review does not have the authority to make an exception to policy to grant the Appellant relief.

CONCLUSIONS OF LAW

- 1) The Appellant receives \$735 per month in Social Security Income and is the only person in his household.
- 2) Per policy, the gross income limit for a one-person household is \$355 for EA eligibility.
- 3) Because the Appellant is over the income limit for EA eligibility, the Respondent correctly denied the Appellant's EA application.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's determination to deny the Appellant's EA application.

ENTERED this 24th day of October 2017.

Lori Woodward, State Hearing Officer