



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
203 East Third Avenue  
Williamson, WV 25661

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

October 7, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-3187

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,

Stephen M. Baisden  
State Hearing Officer  
Member, State Board of Review

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

cc: Tera Pendleton, WV DHHR, [REDACTED] Office

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

██████████,

**Appellant,**

v.

**ACTION NO.: 15-BOR-3187**

**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' (WV DHHR) Common Chapters Manual. This fair hearing was convened on October 7, 2015, on an appeal filed October 2, 2015.

The matter before the Hearing Officer arises from the October 5, 2015 decision by the Respondent to deny the Appellant's application for Emergency Assistance – Shelter.

At the hearing, the Respondent appeared by Representative Tera Pendleton, WV DHHR, ██████████ County office. Appearing as a witness for the Department was Elijah Harper, Economic Service Supervisor. The Appellant appeared *pro se*. The participants were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Case comments from Appellant's case record, from July 23 through October 2, 2015
- D-2 Form DFA-EA-1, Emergency Assistance application form, signed by Appellant on October 2, 2015
- D-3 Petition for Summary Relief: Wrongful Occupation of Residential Rental Property to the Magistrate Court of ██████████ County, WV, dated September 14, 2015
- D-4 Emergency Assistance Information screen print from Appellant's computer record, dated October 5, 2015
- D-5 Denial Letter from Department to Appellant, dated October 5, 2015
- D-6 WV Income Maintenance Manual (IMM), Chapter 19, §19.2.D.1

**Appellant's Exhibits:**

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence, 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 2, 2015, the Appellant applied for Emergency Assistance – Shelter (Exhibit D-2). She presented a Petition for Summary Relief: Wrongful Occupation of Residential Rental Property to the Magistrate Court of ██████ County, WV (Exhibit D-3). She moved out of her residence before she was evicted and moved into a motel that offered long-term stay arrangements.
- 2) The Appellant applied for Emergency Assistance – Shelter in order to help her pay for a longer stay at the motel.
- 3) A Department worker informed the Appellant that the Department denied her application on October 2, 2015, and the Department issued a denial letter to the Appellant on October 5, 2015 (Exhibit D-5). The Appellant requested a fair hearing to protest the denial.

### **APPLICABLE POLICY**

The WV Income Maintenance Manual (WV IMM) Chapter 19, §19.2.A reads, “The Emergency Assistance Program is used to assist individuals and families in meeting a financial crisis when they are without available resources.”

The WV IMM Chapter 19, §19.2.B.1 reads as follows:

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 or her family; and
- Is without available resources with which he or she 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.

The WV IMM Chapter 19, §19.2.D.1.a(3) reads as follows:

**Applicants Who Are Actually Homeless**

The definition of homeless shall include only the following circumstances:

- Homeless transients for which [*sic*] transportation arrangements to their communities are incomplete; or

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

The WV IMM Chapter 19, §19.2.D.c reads, “Authorization for payment of overnight lodging is only made for homeless applicants as defined in ‘Applicants Who Are Actually Homeless’ above. Under no circumstances is payment for overnight lodging authorized for any other reason.”

### **DISCUSSION**

The Appellant argued that she met the definition of a person who is faced with an emergency, found in WV IMM §19.2.B.1, inasmuch as she “is faced with an existing or imminent crisis of a nature that threatens the physical health, safety, and well-being of the applicant” and “is without available resources with which she can immediately eliminate an existing crisis or prevent an imminent crisis.”

However, policy is clear that overnight or multiple-night hotel/motel stays may be paid only for individuals identified in the “Applicants Who Are Actually Homeless” section of WV IMM Chapter 19, §19.2.D.1.a(3). These are individuals who are transients awaiting travel arrangements to their home communities and those who have been rendered homeless because their homes have been destroyed. Policy further specifies that these are the only circumstances wherein overnight lodging may be authorized under the Emergency Assistance program.

Since the Appellant specified that she applied for Emergency Assistance – Shelter in order for her to pay for her overnight lodging, the Department acted correctly to deny her application because she was neither a transient nor a person whose home had been destroyed.

### **CONCLUSION OF LAW**

The Department acted correctly to deny the Appellant’s application for Emergency Assistance – Shelter for overnight lodging because she did not meet the Emergency Assistance definition of a homeless person, pursuant to WV IMM §§19.2.D.1.a(3) and 19.2.D.1.c.

### **DECISION**

It is the decision of the state Hearing Officer to **uphold** the Department’s decision to deny the Appellant’s October 2, 2015, application for Emergency Assistance – Shelter.

**ENTERED this 7<sup>th</sup> Day of October, 2015.**

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**Stephen M. Baisden**  
**State Hearing Officer**