



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 2590
Fairmont, WV 26555

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

April 27, 2007

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 27, 2007. Your hearing request was based on the Department of Health and Human Resources' decision to deny your application for Emergency Assistance.

In arriving at a decision, the State Hearings 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.

Eligibility for the Emergency Assistance program is based on current policy and regulations. Some of these regulations state that all countable gross income received by any member of the AG (Assistance Group) beginning with date of application and ending 29 days later must be counted in determining eligibility for Emergency Assistance. The total countable gross income of all members of the AG is compared to the Monthly Allowable Income Schedule in Appendix A. {West Virginia Income Maintenance Manual, Chapter 19.2 and Appendix A)

The information submitted at your hearing reveals that the gross monthly income amount received by the AG, which includes the Claimant and his girlfriend/roommate, exceeds the maximum allowable income limit for participation in the Emergency Assistance program.

It is the decision of the State Hearings Officer to **uphold** the action of the Department in denying your application for Emergency Financial Assistance benefits.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Theresa Copney, ESW, DHHR

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

_____,

Claimant,

v.

Action Number: 07-BOR-1170

**West Virginia Department of
Health and Human Resources,**

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on April 27, 2007 for _____. This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened on April 27, 2007 on a timely appeal, filed April 20, 2007.

II. PROGRAM PURPOSE:

The Program entitled Emergency Assistance is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

Emergency Assistance is used to assist individuals and families in meeting a financial crisis when they are without available resources. The program 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.

III. PARTICIPANTS:

_____, Claimant's Mother / Representative
Theresa Copney, ESW, DHHR

Presiding at the Hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the agency was correct in its action to deny the Claimant application for Emergency Assistance (EA) benefits due to excessive income.

V. APPLICABLE POLICY:

WV Income Maintenance Manual §19.2 & Appendix A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- Exhibit-1 Hearing Summary
- Exhibit-2 Authorization for _____ to handle the Claimant's affairs.
- Exhibit-3 Emergency Assistance Application
- Exhibit-4 Copy of ES-6 dated 4/18/07 – request for verification by 4/20/07
- Exhibit-5 Copy of Prescriptions
- Exhibit-6 Copy of Denial Letter
- Exhibit-7 WVIMM Policy Manual, Chapter 19.2
- Exhibit-8 WVIMM Policy Manual, Chapter 19, Appendix A

VII. FINDINGS OF FACT:

- 1) On April 18, 2007, the Claimant's mother verified that she was authorized to handle the Claimant's affairs (Exhibit-2) and completed an application for Emergency Assistance benefits (Exhibit -3) on his behalf to pay for prescription medications.
- 2) The Claimant's mother was provided an ES-6 (Exhibit-4) which required her to verify the Claimant's "prescriptions and a doctors statement of what each prescription is for."
- 3) The Claimant's mother complied with the verification request, however, the determination was made that the Claimant resides with his girlfriend, _____ and that her income must be considered in determining financial eligibility.
- 4) On or about April 23, 2007, the Claimant was notified via a Notice of Decision (Exhibit-6) that his application for Emergency Assistance was denied. This notice states, in pertinent part: "Income is more than the gross income limit for you to receive benefits."
- 5) The Department contends that policy found in the West Virginia Income Maintenance Manual (WVIMM) provides that the Claimant's girlfriend/roommate and her income must be included in the AG. The Department's representative purported that the Claimant's girlfriend/roommate is a child care provider for the Department and earns more than the maximum allowable income limit for an AG of two (2).

- 6) The Claimant's mother stated that she does not know the monthly income amount of her son's girlfriend/roommate but stipulated to the fact that it exceeds the maximum amount for a two (2) person AG. The Claimant's mother, however, contends that the income of her son's girlfriend/roommate should not count against him. She stated that he does not have access to her money and he needs prescriptions filled.
- 7) Policy found in the West Virginia Income Manual, Chapter 19.2.B.5.a (*Income Policy*) states - 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 Emergency Assistance. The total countable gross income of all members of the AG is compared to the Monthly Allowable Income Schedule in Appendix A.
- 8) The West Virginia Income Maintenance Manual, Chapter 19.2.C.4 (*The Assistance Group*) – states - The Assistance group (AG) consists of one or more persons who live together.
- 9) The West Virginia Income Maintenance Manual, Appendix A of Chapter 19 (*Emergency Assistance Income Limits*) states that the monthly income limit for an AG of two (2) is \$533.

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that an AG consists of one or more persons who live together and that all of the countable gross income received by any member of the AG must be counted in determining eligibility for Emergency Assistance.
- 2) In accordance with existing policy, the Claimant and his girlfriend/roommate must be included in the same AG. Whereas the Claimant's representative stipulated that the income of her son's girlfriend/roommate exceeds the monthly income limit for an AG of two (2), the Department has taken appropriate action in denying the Claimant's application for Emergency Assistance benefits.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your application for Emergency Financial Assistance benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 27th Day of April, 2007.

**Thomas E. Arnett
State Hearing Officer**