



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

May 14, 2007

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 14, 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 when the Worker does not have sufficient information to make a decision on the application, it is necessary to complete Form ES-6 or verification checklist to inform the applicant of the additional information needed. All requests for verification must be made using the ES-6 form and/or verification checklist. The Worker must clearly state on the form what items must be returned by the applicant as well as the date by which the information must be returned. The failure to return information or the return of incomplete or incorrect information that prevents a decision from being made on the application will be considered failure to provide verification and will result in a denial of the application. {West Virginia Income Maintenance Manual, Chapter 19.2}.

The information submitted at your hearing reveals that you failed to verify requested information that was necessary to determine eligibility.

It is the decision of the State Hearings Officer to **uphold** the action of the Department in denying your March 20, 2007 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
Molly Utt, ESW, DHHR

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

_____,
Claimant,

v.

Action Number: 07-BOR-1318

**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 May 14, 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 May 14, 2007 on a timely appeal, filed May 8, 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
Molly Utt, 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 to pay for his water bill.

V. APPLICABLE POLICY:

WV Income Maintenance Manual §19.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- Exhibit-1 Hearing Summary
- Exhibit-2 Notice of Decision dated May 4, 2007
- Exhibit-3 WVIMM 19.2
- Exhibit-4 Case Comments from RAPIDS for period 3/13/07 – 5/10/07
- Exhibit-5 Request for Verification (ES-6) dated 3/20/07

VII. FINDINGS OF FACT:

- 1) On March 13, 2007, the Claimant completed an application for Emergency financial Assistance, hereinafter EA, for his electric bill. The Claimant's March 13, 2007 application was approved and he was eligible to receive EA for 30 consecutive days beginning March 13, 2007. In accordance with WVIMM, Chapter 19.2, after the 30 days expire, the Claimant is ineligible to receive EA benefits for one year.
- 2) On March 20, 2007 the Claimant completed an application for EA with his water bill. The Claimant was provided a request for verification (Exhibit 5) which requires that Claimant to:
 1. Please take the referrals to outside agencies to gain pledges totaling \$290.16.
 2. You must return to this office by 3/22/07 and remain present to finish the emergency process and sign/date voucher.
- 3) On or about May 4, 2007, the Claimant was notified via a Notice of Decision that his March 20, 2007 EA was denied. This notice states, in pertinent part:

ACTION: You Emergency Assistance application dated 3/20/07 for Emergency Assistance for Water/Sewage has been denied.

REASON: Did not cooperate to relieve emergency situation.
You have not established that an emergency exists.

- 4) The Department presented testimony to indicate that the Claimant was denied because he failed to verify the requested information on the ES-6 (Exhibit 5). The Department acknowledged that the Notice of Denial did not go out as quickly as it should have but contend that the Claimant was responsible for verifying the requested information by March 22, 2007 and he did not return to the Department to question his EA application until May 8, 2007.
- 5) The Claimant purported that he saw a different worker for each of his EA applications on March 13 and March 20, 2007 and he thought he had done everything he needed to do in order to establish eligibility. Because payment was made on his water bill through outside agencies, his water service was restored and he was not aware of a problem with his EA application until he got the water cut-off notice in May 2007.
- 6) Policy found in the West Virginia Income Maintenance Manual, Chapter 19.2,C,1,c (Application Process for Emergency Assistance) states:

When the Worker does not have sufficient information to make a decision on the application, it is necessary to complete Form ES-6 or verification checklist to inform the applicant of the additional information needed. All requests for verification must be made using the ES-6 form and/or verification checklist.

The Worker must clearly state on the form what items must be returned by the applicant as well as the date by which the information must be returned.

The failure to return information or the return of incomplete or incorrect information that prevents a decision from being made on the application will be considered failure to provide verification and will result in a denial of the application.

VIII. CONCLUSIONS OF LAW:

- 1) The failure to return information or the return of incomplete or incorrect information that prevents a decision from being made on the application will be considered failure to provide verification and will result in a denial of the application.
- 2) While the Department noted that the notification of denial was not timely, the fact remains that the Claimant failed to verify information that was necessary to determine eligibility. Based on the evidence, the Department was correct to deny the Claimant's March 20, 2007 application for Emergency Assistance.

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 14th Day of May, 2007.

**Thomas E. Arnett
State Hearing Officer**