



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2669 Park Avenue, Suite 100
Huntington, WV 25704

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

November 6, 2006

Dear Mrs. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 6, 2006. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for emergency assistance.

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.

Eligibility for the Emergency Assistance Program is based on current policy and regulations. Some of these regulations state as follows: 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. The failure to return information or the rest 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 the denial of the application. (Section 19.2C #1(c) of the West Virginia Income Maintenance Manual).

The information which was submitted at your hearing revealed that the verification checklist contained an incorrect date and you did not receive proper notification in writing that your application for Emergency Assistance was denied.

It is the decision of the State Hearing Officer to reverse the action of the Department to deny your application for emergency assistance.

Sincerely,

Thomas M. Smith
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Clarence Dillon, Department Hearing Rep.

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

_____,
Claimant,

v.

Action Numbers: 06-BOR-3238

**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 November 6, 2006 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 November 6, 2006 on a timely appeal, filed November 2, 2006.

It should be noted here that the claimant's benefits have been denied.

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 Financial 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 items or services needed to eliminate an emergency or crisis. Those who are in need of and qualify for emergency financial assistance may already be participating in an economic or social service program.

III. PARTICIPANTS:

_____, Claimant
_____, Claimant's husband.
Clarence Dillon, Department Hearing Representative

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

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Department was correct in the decision to deny the claimant's application for emergency assistance because requested information was not received timely.

V. APPLICABLE POLICY:

Section 19.2 of the West Virginia Income Maintenance Manual

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- DHR-1 Copy of denial letter dated 11-06-06.
- DHR-2 Copy of verification checklist dated 10-13-06 (3 pages).
- DHR-3 Copy of regulations (5 pages).
- DHR-4 Copy of landlord's eviction notice.
- DHR-5 Copy of Magistrate's order (2 pages).
- DHR-6 Copy of hearing summary.

Claimant's Exhibits:

- C-1 Copy of verification checklist dated 10-13-06.

VII. FINDINGS OF FACT:

- 1) The claimant applied for emergency assistance for rent on 10/12/06 and presented an eviction notice from the landlord (Exhibit #DHR-4) and a petition for court action by the Magistrate Court (Exhibit #DHR-5).
- 2) The caseworker (Mr. Dillon) phoned the landlord to ask if one (1) month's rent payment would stop eviction procedures and the landlord refused to cooperate or allow the claimant to remain on the property.
- 3) A verification checklist was sent 10-13-06 requiring the claimant to provide verification of cooperation in relieving the emergency by 10-14-06 in order to establish eligibility (Exhibit #DHR-2).

- 4) After no response from the claimant, a denial letter was sent dated 11-6-06 (Exhibit #DHR-1) stating that all requested information was not turned in. The Department purports that the application was denied on 10-17-06 with notice of denial issued.
- 5) Testimony from the claimant purports that she was told verbally that she had three (3) days to provide the information but the checklist letter did not give her three days (Exhibit #DHR-2 and #C1-1) and that she thought her time period for providing the information ended on 10-14-06. Testimony from the Department purports that date on the verification checklist letter should have been 10-17-06 and the date was incorrect.
- 6) Testimony from the claimant and her husband purports that they did not receive the denial letter dated 11-6-06 (Exhibit #DHR-1). Testimony from the Department purports that the denial letter dated 11-06-06 was the only denial letter issued.
- 7) Section 19.2C #1(c) of the West Virginia Income Maintenance Manual states, in part: “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. 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 rest 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 the denial of the application.”
- 8) Section 19.2C #5 of the West Virginia Income Maintenance Manual states in part: “The Worker must approve or deny the application in RAPIDS. A decision must be made on all applications as soon as possible, or prior to the imminent emergency but no later than three business days from the date of application.”
- 9) The areas of dispute involve whether the verification checklist letter properly informed the claimant of the due date of the required information and whether the claimant was properly informed that the application was denied.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in that decisions must be made on all applications as soon as possible but no later than three (3) business days from the date of application. The date which should have been contained on the verification checklist should have been 10-17-06 which would have allowed the claimant three (3) business days to provide the required information. In addition, the verification checklist letter dated 10-13-06 was not clear in what information was required.
- 2) The claimant did not receive proper written notification of denial of the application for the EA Program. The claimant purported that she did not receive the letter dated 11-6-06 and the Department purported that the letter dated 11-6-06 was the only letter issued to inform the claimant of denial of the application.

IX. DECISION:

It is the finding of the State Hearing Officer to reversed the Department's decision to deny the claimant's application for emergency assistance.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 6th Day of November, 2006.

**Thomas M. Smith
State Hearing Officer**