



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241**

**Bill J. Crouch
Cabinet Secretary**

**Jolynn Marra
Interim Inspector General**

January 31, 2019

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 19-BOR-1023

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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

Cc Charla Owens, WVDHHR

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

██████████,

Appellant,

v.

Action Number: 19-BOR-1023

**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 January 24, 2019, on an appeal filed January 3, 2019.

The matter before the Hearing Officer arises from the January 3, 2019 decision by the Respondent to deny benefits under the Indigent Burial Program.

At the hearing, the Respondent appeared by Ashley Dupree, Economic Service Worker, WVDHHR. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Affidavit of Responsible Relative dated January 3, 2019
- D-2 West Virginia Income Maintenance Manual Chapter 20.3 and Chapter 4, Appendix A
- D-3 Indigent Burial Program Denial of Application notice dated January 3, 2019
- D-4 Indigent Burial Program application dated January 3, 2019
- D-5 Burial Billing Form signed on December 31, 2018

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 January 3, 2019, the Appellant applied for Indigent Burial Program financial assistance toward the burial expenses of her brother, [REDACTED] (D-4 and D-5).
- 2) The Respondent determined that the Appellant is considered a responsible relative in regard to Mr. [REDACTED] burial expenses. (D-1).
- 3) The Respondent calculated the Appellant's income as \$2,100 per month, and determined that the income was excessive to receive burial benefits. That income includes \$1,500 per month in retirement benefits and \$600 earned income from a part-time job.
- 4) The Respondent informed the Appellant of the application denial in a notice dated January 3, 2019 (D-3).

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 20.3.2.D (D-2) states that the income limit for the Indigent Burial Program is 133% of the Federal Poverty Level (FPL), which would be the income limit of the responsible relative. The household size and income would include all individuals that reside in the same household as the responsible relative. If the responsible individual is not also considered a responsible relative (spouse, child, parents, siblings) then the income does not need to be verified. The income limit applies to responsible relatives only. If a responsible relative applies and is over the income limit, someone else cannot reapply in place of the responsible relative. The burial would remain denied once a responsible relative comes forth and is found over the income limit.

Chapter 20.3.5.B of the manual (D-2) states:

As indicated in the Public Welfare Law Section 9-5-9, liability of relatives for support, certain relatives of the deceased who are financially able shall be responsible to pay the expenses of burial. These relatives are listed in the order of priority:

- The spouse (even if living apart, if they are still legally married)
- The children
- The parents
- The siblings

“Financially able” is defined as the responsible relative's financial ability to make payment toward or the entire maximum payment allowed by the DHHR. The income of the responsible relative must be verified. The income is 133% of the FPL. The income and needs group would consist of the responsible relative and those living with the responsible relative at the time of application. The most recent 30 days of income would be counted starting with the date of application. The budgeting rules would follow SNAP policy. The applicant has three days to provide income verification or the application will be denied if income is not verified within that time.

In many situations, other relatives (spouse, nephew, niece, etc.) who are not legally liable for payment of burial costs will take the responsibility for arranging the burial and make applications for burial expenses.

Chapter 4, Appendix A of the manual states that 133% of the FPL for a one-person Assistance Group is \$1,346 (D-2).

DISCUSSION

Policy states that siblings are considered responsible relatives under the Indigent Burial Program. The household size and income includes the responsible relative and all individuals who reside in the same household as the responsible relative.

The Appellant did not dispute the Respondent's calculation of her income, but stated that she is confused about why her income is counted toward her brother's burial expenses. The Appellant testified that she receives a small pension, has a part-time job to help pay her bills, and "barely gets by." She testified that she informed the funeral home she would pay for her brother's burial expenses, although she contended that she is not responsible for his bills and her name is not on his bank account. The Appellant's brother has one son, who is in a nursing facility and is physically unable to apply for burial benefits for his father.

As the Appellant's undisputed gross income was calculated as \$2,100 per month – and 133% of the FPL for a one-person Assistance Group is \$1,346 – the Appellant's income is excessive for the Indigent Burial Program.

CONCLUSION OF LAW

Based on information provided during the hearing, the Appellant's countable income is excessive for the Indigent Burial Program.

DECISION

It is the decision of the State Hearing Officer to UPHOLD the Respondent's denial of benefits under the Indigent Burial Program.

ENTERED this 31st Day of January 2019.

Pamela L. Hinzman
State Hearing Officer

