



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL**

**Bill J. Crouch  
Cabinet Secretary**

**BOARD OF REVIEW  
Raleigh County District  
407 Neville Street  
Beckley, WV 25801**

**Jolynn Marra  
Interim Inspector General**

April 1, 2020

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 20-BOR-1380

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,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

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

cc: Heather Keffer, [REDACTED] County DHHR

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

██████████,

**Appellant,**

**v.**

**Action Number: 20-BOR-1380**

**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 March 31, 2020, on an appeal filed March 12, 2020.

The matter before the Hearing Officer arises from the March 12, 2020, decision by the Respondent to deny the Appellant's application for the Indigent Burial Program.

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

**Department's Exhibits:**

None

**Appellant's Exhibits:**

None

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) The Appellant applied for assistance under Indigent Burial Program on March 12, 2020, on behalf of her deceased brother, [REDACTED].
- 2) The Appellant receives Social Security benefits of \$461 monthly and her husband receives \$1,762 in Railroad Retirement monthly.
- 3) The Respondent notified the Appellant that the application for the Indigent Burial Program was denied due to excessive income.

### **APPLICABLE POLICY**

West Virginia Income Maintenance §20.3.2.C.1 states a responsible relative is a relative who is liable for the burial costs of the deceased, i.e., spouse, children, parents or siblings. If the applicant is a responsible relative then the Worker must check their readily available liquid assets such as, but not limited to cash, checking, savings, proof of income.

West Virginia Income Maintenance §20.3.2.D states the income limit for the indigent burial program is 133% of the federal poverty level (FPL). This 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. The deceased and their income would not be included in this. There is no asset test for the responsible relative.

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.

West Virginia Income Maintenance Manual Chapter 4 Appendix A lists 133% FPL for a two-person assistance group as \$1,911.

### **DISCUSSION**

Pursuant to policy, the income limit for the responsible relative of the deceased who applies for assistance under the Indigent Burial Program cannot exceed 133% of the federal poverty level. The income guidelines apply to all individuals who live in the same household of the responsible relative. Policy defines a responsible relative as a spouse, children, parents or siblings of the deceased.

The Appellant applied for assistance under the Indigent Burial Program for her brother. The Appellant's total income for her household was \$2,223. The income limit for a two-person household is \$1,911.

The Appellant testified that her brother did not reside with her and her husband and therefore could not understand why their income was considered in determining eligibility for assistance with his

burial. The Appellant contended that her husband had not received any income since November 2019, but his Railroad Retirement was approved and deposited into their account the date of her brother's death.

Policy stipulates that the income of the responsible relative who applies for assistance under the Indigent Burial Program, and the income of those residing in the same household of the responsible relative, must be considered when determining income eligibility for the program. The total combined income of the Appellant and her husband exceed the allowable limit for assistance under the Indigent Burial Program.

### **CONCLUSIONS OF LAW**

- 1) The Appellant is a responsible relative of her deceased brother.
- 2) Policy requires that the income of the responsible relative and those residing in the same household as the responsible relative is considered when determining eligibility for the Indigent Burial Program.
- 3) The income limit for a 2-person household is \$1,911.
- 4) The total combined income for the Appellant and her husband is \$2,223.
- 5) The income is excessive to receive assistance under the Indigent Burial Program.

### **DECISION**

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to deny the Appellant's application for assistance under the Indigent Burial Program.

**ENTERED this 1<sup>st</sup> day of April 2020.**

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**Kristi Logan  
State Hearing Officer**