



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

Bill J. Crouch  
Cabinet Secretary

BOARD OF REVIEW  
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Jolynn Marra  
Interim Inspector General

July 23, 2019

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.:19-BOR-1874

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,

Danielle C. Jarrett  
State Hearing Officer  
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision  
Form IG-BR-29  
cc: Tera Pendleton, Department Representative

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

████████████████████,

**Appellant,**

**v.**

**Action Number: 19-BOR-1874**

**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 July 10, 2019, on an appeal filed June 3, 2019.

The matter before the Hearing Officer arises from the May 29, 2019 determination by the Respondent to deny the Appellant's application for the Indigent Burial Program.

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

**Department's Exhibits:**

- D-1 West Virginia Department of Health and Human Resources (WVDHHR) Application for Burial Benefits, dated May 29, 2019
- D-2 WVDHHR Burial Billing Form, dated May 29, 2019; ██████████ Statement for Funeral Goods and Services Selected; and Contract for Funeral and Burial Services, dated May 24, 2019
- D-3 Indigent Burial Program Denial of Application, dated May 29, 2019
- D-4 eRAPIDS computer system screenshot printout of Case Comments, dated June 26, 2018 through May 26, 2019; eRAPIDS computer system screenshot printout of General Case Information for ██████████, dated March 8, 2019; and eRAPIDS computer system screenshot printout of General Case Information for ██████████, dated March 24, 2019
- D-5 Notice of Verification, dated May 24, 2019
- D-6 eRAPIDS computer system screenshot printout of Case Comments, dated May 24, 2019 through June 13, 2019

**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) On May 24, 2019, [REDACTED] applied for Indigent Burial Program (IBP) benefits on behalf of her mother, [REDACTED] (the deceased), at the local [REDACTED] County Department of Health and Human Resources (DHHR) office. (Exhibits D-4 through D-6)
- 2) The deceased is a resident of [REDACTED] County, West Virginia.
- 3) The deceased's internment was in [REDACTED] County, West Virginia.
- 4) On May 24, 2019, [REDACTED] IBP application was pended for verification of her household income and liquid assets. (Exhibit D-5)
- 5) On May 29, 2019, the Appellant applied for IBP benefits on behalf her daughter, the deceased, at the local [REDACTED] County DHHR office. (Exhibits D-1 and D-2)
- 6) The Appellant's IBP application incorrectly indicated that she was a spouse to the deceased. (Exhibit D-1)
- 7) The Appellant's IBP application did not include the attestation of the heirs of the deceased. (Exhibit D-1)
- 8) The Appellant's IBP application did not include the attestation that she was a liable relative of the deceased. (Exhibit D-1)
- 9) The Appellant's burial billing form did not include a listing of the known living relatives of the deceased and their current location. (Exhibit D-2)
- 10) The Appellant and [REDACTED] are defined as responsible relatives of the deceased and are liable for her burial costs.
- 11) By contract dated on May 24, 2019, [REDACTED] agreed she was a responsible relative for the deceased burial arrangements and indicated she had the legal right to arrange final services. (Exhibit D-2)

- 12) The Appellant was not listed as the responsible relative on the burial contract. (Exhibit D-2)
- 13) On May 29, 2019, the Respondent issued notice advising the Appellant that she was ineligible for IBP benefits due to a pending IBP application submitted on May 24, 2019, at the local [REDACTED] County DHHR office on behalf of the deceased. (Exhibit D-3)
- 14) On June 6, 2019, the IBP application submitted to the [REDACTED] County local DHHR office was denied due to [REDACTED] failure to submit verification of her household income and liquid assets. (Exhibit D-6)

### **APPLICABLE POLICY**

West Virginia Code § 9-5-9 explains that the relatives of an indigent person, including children, who are of sufficient ability, should be liable to support such person in the manner required by the department of welfare and to pay the expenses of burial when she dies.

West Virginia Income Maintenance Manual (WV IMM) § 1.2.4, states the client's responsibility is to provide complete and accurate information about his or her circumstances so that the worker can make a correct determination about his or her eligibility.

WV IMM § 7.2.1 reads that verification is required when information provided is questionable or if the client does not know the required information.

WV IMM § 7.2.3 explains that failure of the client to provide necessary information or to sign authorization for release of information results in denial of the application or closure of the active case, provided the client has access to such information and is physically and mentally able to provide it.

WV IMM § 7.2.4 explains that the worker has the responsibility at application, redetermination, or anytime a DFA-6 is used, the worker must list all required verification known at the time. The worker should only request verification if information provided is incomplete or additional information is necessary to determine eligibility.

WV IMM § 7.3 states that all income is used in calculating eligibility for IBP and the benefit must be verified. Bank accounts and liquid assets must be verified at application and redetermination when the client reports an increase.

WV IMM § 20.3.2.A explains that for IBP the worker must verify residency of the deceased. Examples used to verify residency include, but are not limited to, current state Driver's License/ID card, current utility bill, current rent, or mortgage receipts, current landlord's statement, current written statement from neighbors, and employment records.

WV IMM § 20.3.2.B reads that the worker must verify the availability of the deceased's liquid assets prior to approval of the burial application.

WV IMM § 20.3.2.C.1 reads that 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 the responsible relative then the worker must check their readily available liquid assets, such as, but not limited to cash, checking, savings, and proof of income.

WV IMM § 20.3.2.D reads that the income limit for the IBP is 133% of the Federal Poverty Level (FPL). This is the income limit of the responsible relatives and applies to the responsible relatives only. The household size and income would include all individuals that reside in the same household as the responsible relatives. The deceased and their income would not be included in this. There is no asset test for the responsible relatives. If responsible relatives apply and are over the income limit someone else cannot reapply in place of the responsible relatives. The burial would remain denied once the responsible relatives came forth and are found over the income limit.

WV IMM § 20.3.3 explains that the direct burial rate of \$1,000 is the maximum amount that will be paid by DHHR. This rate applies to all burials. Under no circumstances is this rate negotiable regardless of the specific burial plan desired by the applicant.

WV IMM § 20.3.5.B explains that “financially able” is defined as the responsible relative’s financial ability to make payment towards or the entire maximum payment allowed by DHHR. The income of the responsible relative must be verified. The needs group and income group would consist of the responsible relative and those living with the responsible relative, at the time of the application. The most recent 30 days of income would be counted starting with the date of the application. The budgeting rules follow the Supplemental Nutrition Assistance Program (SNAP) policy. The applicant has three (3) days to provide income verification or the application will be denied if income is not verified within that time.

WV IMM § 20.3.5.C reads that generally, the county in which the individual resided at the time of death will assume the responsibility for accepting the IBP application and making payment for eligible individuals. However, situations may occur when someone from another county has taken responsibility for the burial arrangements and wishes to have the deceased interred in that other county. When this occurs, the other county will accept the application and process payment.

WV IMM § 20.3.5.E explains that when the IBP application is denied, the worker must send a completed DFA-BU-4 notification to the person who made application for the burial. In addition, a copy of the DFA-BU-4 must be sent to the funeral home that provided burial services for the deceased. The reason for the denial must be stated on the notice. The fair hearing request form, DFA-FH-1, must be included with the denial letter and sent to the applicant. A copy of the denial letter must be placed in the deceased’s file.

## **DISCUSSION**

On March 29, 2019, the Appellant applied for IBP benefits on behalf of the deceased and was denied due to the Respondent’s determination that [REDACTED] had also applied for IBP benefits on May 24, 2019, at the local [REDACTED] County DHHR office, on behalf of the deceased. The Appellant

contested the Respondent's determination. The previously submitted IBP application was pended for verification of income and liquid assets.

On June 6, 2019, notice of denial was issued to [REDACTED] for failure to submit the requested verification. Policy states that the income of the responsible relatives and their households must be verified and that failure to verify results in the denial of the IBP application. While [REDACTED] agreed she was a responsible relative for the deceased's burial arrangements and indicated she had the legal right to arrange final services, the Appellant and [REDACTED] are both defined by policy as responsible relatives and income and liquid asset verification of both households should have been considered in any determination of eligibility.

It is noted that the Appellant's application for IBP benefits and burial billing form was not complete. The Appellant's IBP application failed to include the attestation of the heirs of the deceased or that she was a liable relative of the deceased. The Appellant's burial billing did not list the known living relatives of the deceased and their current location. Had the Appellant disclosed all responsible relatives to the deceased on her application, all responsible relatives' income and liquid assets would have been pended for verification, including those of [REDACTED], a responsible relative. Finally, policy indicates that the application for burial should be in the county of residence of the deceased. Policy states that situations may occur when someone from another county has taken responsibility for the burial arrangements and wishes to have the deceased interred in that other county. The Appellant argued that the deceased was residing with her in [REDACTED] County at the time of death, however both the contract for burial and the Respondent's records indicated the deceased was a resident of [REDACTED] County. Furthermore, the burial contract was for interment in [REDACTED] County, not [REDACTED] County. The deceased does not meet the exception to policy.

The Appellant testified that she was unaware that [REDACTED] had applied for IBP benefits at the [REDACTED] County DHHR. The Appellant indicated that when she received the Respondent's denial for IBP benefits, she went to the [REDACTED] County DHHR office and that a worker told her that if [REDACTED] County DHHR denied [REDACTED] application for IBP, that [REDACTED] County DHHR would pay the remaining burial expense, such a declaration is not in accordance with policy. Policy does not permit the approval of applications based on misinformation.

### **CONCLUSIONS OF LAW**

- 1) Because the deceased was a resident of [REDACTED] County and was interred in [REDACTED] County, policy required the application for IBP benefits by submitted and processed at the [REDACTED] County DHHR.
- 2) Because [REDACTED] County was the proper county for the submission and processing of the IBP application for the deceased, [REDACTED] County DHHR was correct to deny the Appellant's application for IBP benefits.

### **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to deny the Appellant's application for Indigent Burial Program benefits for the deceased.

**ENTERED** this \_\_\_\_\_ day of July 2019.

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**Danielle C. Jarrett**  
**State Hearing Officer**