



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of the Inspector General**

**Sherri A. Young, DO, MBA, FAAFP
Interim Cabinet Secretary**

**Christopher G. Nelson
Interim Inspector General**

November 29, 2023

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 23-BOR-3369

Dear [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,

Lori Woodward, J.D.
Certified State Hearing Officer
Member, State Board of Review

Encl: Recourse to Hearing Decision
Form IG-BR-29

cc: Ann Hubbard, BFA, WV DHHR

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

██████████,

Appellant,

v.

ACTION NO.: 23-BOR-3369

**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 November 28, 2023, on an appeal filed November 3, 2023.

The matter before the Hearing Officer arises from the Respondent's October 25, 2023 decision to deny Indigent Burial Program benefits.

At the hearing, the Respondent appeared by Ann Hubbard, Economic Services Supervisor. The Appellant appeared *pro-se*. The witnesses were placed under oath 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 Indigent Burial Program benefits on October 24, 2023.
- 2) The Appellant is considered a Responsible Relative of her deceased brother.
- 3) The Appellant has gross unearned income of \$1900 per month.
- 4) The allowable income limit for the Indigent Burial Program for an assistance group of one is 133% of the Federal Poverty Level (FPL), or \$1616 per month.
- 5) On October 25, 2023, the Appellant's application for the Indigent Burial Program was denied due to being over the allowable income limit.

APPLICABLE POLICY

WV Income Maintenance Manual (IMM), Chapter 20, §20.3.3.C, *Responsible Relative*:

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 verify their income.

WV IMM, Chapter 20, §20.3.4.D, *Liability of Responsible Relatives, in relevant part*:

As indicated in the Public Welfare Law §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 limit is 133% of the FPL. The needs group and income 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 3 days to provide income verification, or the application will be denied if income is not verified within that time. The income of the deceased is not counted.

WV IMM, Chapter 4, Appendix A, Income Limits

133% of the FPL for a one-person AG: \$1,616

DISCUSSION

The Appellant applied for the Indigent Burial Program on October 24, 2023 for assistance with the burial expenses of her brother. By policy, the Appellant is considered a responsible relative. The Appellant's assistance group is one. The Appellant attested to a gross monthly unearned income of \$1900. Policy establishes the allowable gross monthly income limit for the Indigent Burial Program at 133% of the FPL, which is \$1616 for an assistance group of one. On October 25, 2023, the Respondent sent notification to the Appellant that her application for the Indigent Burial Program was denied due to excessive income.

The Appellant acknowledged that her gross monthly unearned income is \$1900. However, she brings this appeal requesting that consideration be given to use her Medicare Premiums and the monthly income she receives from her deceased husband's social security pension as a deduction from her gross monthly income.

Policy does not provide for net income to be used in determining eligibility for the Indigent Burial Program. Policy sets the allowable gross monthly income limit for an assistance group at 133% of the FPL. As the Appellant's assistance group is one, 133% of the FPL equals \$1616. The Board of Review does not have the authority to change policy. Because the Respondent correctly calculated the Appellant's income to be over the allowable limit for program eligibility, the Respondent's decision to deny the Appellant's application for the Indigent Burial Program is affirmed.

CONCLUSIONS OF LAW

- 1) The Appellant is considered a responsible relative for the Indigent Burial Program.
- 2) The income limit for a one-person AG for the Indigent Burial Program is \$1616.
- 3) The Appellant's gross monthly income is \$1900.
- 4) The Appellant's income is over the allowable income limit for an assistance group of one for the Indigent Burial Program.

DECISION

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

ENTERED this 29th day of November 2023.

Lori Woodward, Certified State Hearing Officer