

State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
150 Maplewood Avenue
Lewisburg, West Virginia 24901
Telephone (304) 647-7476 Fax: (304) 647-7486

March 25, 2005

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 16, 2005 for the Low Income Energy Assistance Program (LIEAP). Your hearing request was based on the Department of Health and Human Resources' decision to deny your application.

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 Low Income Energy Assistance Program is based on current policy and regulations. One of these regulations state as follows: The LIEAP program is time-limited and dependent on the availability of federal funds. The program is subject to closure without prior notice when funds are deemed exhausted. (Section 26.1 of the West Virginia Income Maintenance Manual) Another regulation specifies that applications mailed to a local DHHR office with a postmark later than December 10, 2004 must be processed as denials. (Memorandum dated November 18, 2004 by Ron Gilmore, LIEAP Coordinator, entitled "Opening of General Intake for LIEAP")

The information which was submitted at your hearing revealed that your application was received in the local office on December 16, 2004 and was postmarked December 15, 2004.

It is the decision of the State Hearing Officer to uphold the action of the Agency to deny your LIEAP application.

Sincerely,

Margaret M. Mann
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Michael Stanley, DHHR

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**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
SUMMARY AND DECISION OF THE STATE HEARING OFFICER**

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on March 16, 2005 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 March 16, 2005 on a timely appeal, filed January 6, 2005. It should be noted that this hearing was originally scheduled for February 28, 2005 and was rescheduled for March 16, 2005 due to inclement weather.

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

II. PROGRAM PURPOSE:

The Program entitled Low Income Energy Assistance (LIEAP) is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The Low Income Energy Assistance Program (LIEAP) provides financial assistance to eligible households that are responsible for a home heating cost. It is not the purpose of this program to meet the entire cost of home heating during the heating season, but it is designed to partially offset the cost.

Applicants for Emergency LIEAP must verify that they are facing an imminent emergency or that they are experiencing an emergency.

III. PARTICIPANTS:

_____, Claimant

_____, Witness for the Claimant

Michael Stanley, Department Hearing Representative

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Department was correct in the decision to deny the claimant's LIEAP application because the application was not received timely.

V. APPLICABLE POLICY:

Section 26.1 of the West Virginia Income Maintenance Manual reads in part:

The LIEAP program is time-limited and dependent on the availability of federal funds. It is subject to closure without prior notice when funds are deemed exhausted. Funds are normally dispersed on a first-come, first-serve basis, but may also be subject to disbursement on need. When this occurs, priority will be given to those groups of individuals with the greater energy burden as demonstrated by income, household size and heating cost.

Memorandum dated November 18, 2004 by Ron Gilmore, LIEAP Coordinator, entitled "Opening of General Intake for LIEAP" reads in part:

The Low Income Energy Assistance Program (LIEAP) will officially open for general intake on Monday, December 6, and close at the end of the day on Friday, December 10, 2004. This short intake period follows the mailing of nearly 60,000 applications to households which were approved for and received LIEAP during the 2003 – 2004 season. The deadline for these applications is also December 10, 2004.

No agency may accept a walk-in application after December 10, 2004. Applications received prior to that date must be date-stamped and submitted to the local DHHR office for processing as soon as all pending information is received, but not later than 30 days following the date of application. Applications mailed to a local DHHR office with a postmark later than December 10, 2004 must be processed as denials.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department' Exhibits:

Exhibit D-1) LIEAP application received December 16, 2004 with envelope postmarked 12.15.04

Exhibit D-2) Memorandum dated November 18, 2004 by Ron Gilmore, LIEAP Coordinator, entitled "Opening of General Intake for LIEAP"

Exhibit D-3) Notification letter dated 12/20/04

VII. FINDINGS OF FACT:

- 1) A LIEAP application for the claimant was received in the local office on 12/16/04. The envelope was postmarked 12/15/04. The claimant had dated the application 11/05/04. (Exhibit D-1)

- 2) The claimant was sent a notice dated 12/20/04 informing him that his LIEAP application was denied. Reason: The LIEAP heating season has ended. (Exhibit D-3)
- 3) Mr. _____ testified he gave the application to his brother-in-law to mail. His brother-in-law told him he mailed it on 11.05/04.

VIII. CONCLUSIONS OF LAW:

- 1) Policy specifies that the LIEAP program is subject to closure without prior notice when funds are deemed exhausted. The program ended at the close of the day December 10, 2004. Applications mailed to the local office with a postmark later than December 10, 2004 had to be processed as denials.
- 2) The claimant's application was postmarked December 15, 2004 and received in the local office on December 16, 2004.

IX. DECISION:

After reviewing the evidence and testimony it is the finding of the State Hearing Officer that the claimant did not submit his LIEAP application timely. The Agency is upheld in the decision to deny the claimant's application for the LIEAP program.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29