

**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 April 14, 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 April 14, 2005 on a timely appeal, filed November 1, 2004. 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. The claimant could not keep this appointment because of her health and the hearing was rescheduled for April 14, 2005.

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
_____, Claimant's Daughter
Patty Beverly, Department Hearing Representative

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Agency was correct in the decision to deny the claimant's LIEAP application because the eligibility factor of vulnerability was not met.

V. APPLICABLE POLICY:

Section 26.2 #2 of the West Virginia Income Maintenance Manual reads in part:

In order to qualify for a LIEAP payment, a household must be determined vulnerable or partially vulnerable to the cost of home heating.

Vulnerable households are those which must pay the heating costs for the home in which they reside. This cost must be paid directly to a provider as a separate payment or as a specified portion of a rent or mortgage payment. The amount specified as a heating cost must be stated on a rent receipt, lease, or other documentation. Households may also be considered vulnerable if there has been a documented increase in a rent or mortgage payment due to increased fuel costs.

Invulnerability means the AG has no home heating costs or is not responsible for payment of the heating cost. Individuals who live in state institutions, hospitals and certain group living facilities, such as halfway houses and domestic violence centers, and those whose home heating costs are paid for by a third party are considered invulnerable.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department' Exhibits:

- Exhibit D-1) LIEAP Application dated 10/26/04
- Exhibit D-2) Statement from [REDACTED]
- Exhibit D-3) Case Comments dated 01/03/05
- Exhibit D-4) RAPIDS Screen AFUC Utility Costs dated 01/03/05
- Exhibit D-5) Case Comments dated 10/08/04 and 10/28/04
- Exhibit D-6) Notification Letter dated 10/29/04

VII. FINDINGS OF FACT:

- 1) The claimant applied for the Low Income Energy Assistance Program (LIEAP) on 10/26/04. Under Part E., How do you heat your home? she listed kerosene as her primary source of home heating. Under Part F., How do you pay for your home heating costs? It is written "pay myself". Income listed is "food stamps" The directions listed to the claimant's home are "[REDACTED] white house" (Exhibit D-1)
- 2) At the time of the LIEAP application, the claimant was also a recipient of food stamps. It is verified through a written statement in the case that all of the claimant's bills are paid by [REDACTED]. He lists expenses paid as rent, water, light, phone, garbage and tv. (Exhibits D-2 and D-3)

- 3) The Utility Costs Screen in RAPIDS shows the claimant uses electric for heating. (Exhibit D-4)
- 4) Case Comments dated 10/08/05 read that the claimant reported she still had no shelter/utility expenses as her son pays them. (Exhibit D-5)
- 5) The LIEAP application was denied 10/28/04. Case Comments read no income. Previously reported as living as separate household and provided statement. Also, previously reported she had no s/u expenses. (Exhibits D-1 and D-5)
- 6) The claimant was notified of the denial in a letter dated 10/29/04. (Exhibit D05) She requested a hearing 11/01/04.
- 7) Ms. _____ testified she was living on _____ when she applied for LIEAP on 10/26/04. She lived there three months and moved to _____ Heights in January, 2005.
- 8) Ms. _____ testified she had no income. Her daughter, _____, was paying her bills including the bill for heat, while she was living on _____. Her son was not paying her bills. _____ is a friend of hers who pays her bills because she now works for Mr. _____'s mother.

VIII. CONCLUSIONS OF LAW:

- 1) Policy specifies that in order to qualify for a LIEAP payment, a household must be determined vulnerable or partially vulnerable to the cost of home heating. Vulnerable households are those which must pay the heating costs for the home in which they reside. This cost must be paid directly to a provider as a separate payment or as a specified portion of a rent or mortgage payment.

Invulnerability means the AG has no home heating costs or is not responsible for payment of the heating cost. Individuals who live in state institutions, hospitals and certain group living facilities, such as halfway houses and domestic violence centers, and those whose home heating costs are paid for by a third party are considered invulnerable.

- 2) The preponderance of evidence shows the claimant did not have a heating cost at the time she applied for LIEAP. The food stamp record reads on 10/08/04 that the claimant has no shelter/utility costs. The claimant testified her daughter was paying her bills, including heat, at the time of application.

IX. DECISION:

After reviewing the evidence and testimony it is the finding of the State Hearing Officer that the Agency is upheld in the decision to deny the claimant's application for the Low Income Energy Assistance Program.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29