



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
State Board of Review  
2699 Park Avenue, Suite 100  
Huntington, West Virginia 25704  
February 28, 2005

Joe Manchin III  
Governor

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_,

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 25, 2005. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for the Low Income Energy Assistance Program (LIEAP).

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 and benefit levels for the LIEAP Program are determined based on current regulations. One of these regulations is that vulnerable households are those which must pay the heating cost for the home in which they reside and the amount specified as heating cost must be stated on a rent receipt, lease or other documentation (WV Income Maintenance Manual Section 26.2).

The information which was submitted at the hearing revealed that your rent statement did not specify a heating cost amount and it could not be determined that you lived in a separate household from your parents.

It is the decision of the State Hearing Officer to uphold the action of the Department to deny your application for the Low Income Energy Assistance Program (LIEAP).

Sincerely,

Thomas M. Smith  
State Hearing Officer  
Member, State Board of Review

cc: Board of Review  
Cynthia Spencer, Dept. Hearing Rep.

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

SUMMARY AND DECISION OF THE STATE HEARING OFFICER

I. INTRODUCTION

This is a report of the State Hearing Officer resulting from a hearing concluded on February 25, 2005 for Ms. \_\_\_\_\_.

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 grievance hearing was originally convened on February 25, 2005 on a timely appeal filed December 22, 2004.

It should be noted here that any benefits under the LIEAP Program have been denied pending the results of this hearing. It should also be noted that the hearing was originally scheduled for February 10, 2005 but the claimant called on that date and said she was unable to keep the appointment due to lack of transportation and the State Hearing Officer offered an opportunity for a telephone hearing and the claimant chose to have the hearing conducted by telephone conference and the hearing was rescheduled to allow both parties to provide a copy of evidence to be used during the hearing. A copy of the Department's evidence was received on 2-17-05 and was forwarded to the claimant on that date. No written evidence was received from the claimant.

All persons giving testimony were placed under oath.

II. PROGRAM PURPOSE

The program entitled LIEAP is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and Human Resources.

The goal of the Low Income Energy Assistance Program (LIEAP) is to provide financial assistance to eligible households that are affected by the rising costs of home heating that are excessive in relation to household income. It is not the purpose of this program to meet the entire cost of home heating during the winter season. Instead the program is designed to partially offset the continuing rise in costs of home heating.

III. PARTICIPANTS

1. \_\_\_\_\_, Claimant.
2. Cynthia Spencer, Dept. Hearing Rep.

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Presiding at the hearing was Thomas M. Smith, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED

The question to be decided is whether the Department took the correct action to deny the claimant's application for the LIEAP Program due to claimant not being responsible for heating costs.

V. APPLICABLE POLICY

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED**

Exhibit #1 Copy of LIEAP application (4 pages).  
" #2 Copy of statement from \_\_\_\_\_ 12-2-04.  
" #3 Copy of denial notification 12-17-04 (3 pages).  
" #4 Copy of hearing request.  
" #5 Copy of form IG-BR-29.  
" #6 Copy of pre-hearing conference letter.  
" #7 Copy of case comments 1-5-05 (2 pages).  
" #8 Copy of statement from \_\_\_\_\_ 1-4-05.  
" #9 Copy of hearing appointment letter for February 10, 2005.  
" #10 & #11 Copy of manual section 26.2.

**VII. FINDINGS OF FACT**

1. An application for the LIEAP Program was received in the [REDACTED] County DHHR office on 12-9-04 (Exhibit #1).
2. Written statement with application dated 12-2-04 from \_\_\_\_\_ verified that claimant was living in her home and paid \$150 rent per month which included utilities (Exhibit #2).
3. The application for LIEAP was denied as the claimant was not being billed for heating costs and was not vulnerable according to WV Income Maintenance Manual Section 26.2 (Exhibit #10 & #11) and notification of denial of the application was issued on 12-17-04 (Exhibit #3).
4. A pre-hearing conference was conducted on 1-5-05 at which time the claimant reported she has a separate bedroom built on to her parents' house with a wood burning stove and the claimant provided another statement from her father that the claimant pays for her own heating source (wood) (Exhibit #8).
5. The claimant testified that her parents wrote her a statement that she pays \$200 rent and was responsible for her own utilities but another worker (Ms. White) told her that the letter was unacceptable as she had more expenses then income and she had her parents write another letter for \$150.

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6. The claimant testified that her parents are having to purchase wood for her and it is unfair because the first worker told her what to have her parents put on the statement.
7. Ms. Spencer testified that the statement from the claimant's parents did not specify an amount she pays for wood, the claimant has no separate entrance to her room from her parents' house, and that the claimant has not purchased any wood herself.

**CONCLUSIONS OF LAW**

1. WV Income Maintenance Manual Section 26.2 states, in part:

"A. REGULAR LIEAP

Eligibility for Regular LIEAP is based on a number of factors, including income, household size, vulnerability to the cost of home heating, residence and citizenship.....

2. Household and Assistance Group (AG)

The AG consists of any individual or group of individuals who are living as one economic unit or who are sharing expenses and for whom residential home heating is customarily purchased in common or for whom home heating is included in a rent or mortgage payment as a specified amount.

It is the responsibility of the applicant to list all individuals who are living in the home, regardless of whether they are family members or whether or not they share the cost of home heating. For the purpose of LIEAP eligibility, all household members are considered one AG.....

### 3. Vulnerability To The Cost Of Home Heating

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

#### a. Vulnerable Households

Vulnerable households are those which must pay the heating cost 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."

## VIII. DECISION

Based on the testimony and evidence presented, I must rule that the Department has taken the correct action to deny the application for the LIEAP Program. WV Income Maintenance Manual Section 26.2 states that "in order to qualify for a LIEAP payment, a household must be determined vulnerable or partially vulnerable to the cost of home heating" and that "the amount specified as a heating cost must be stated on a rent receipt, lease, or other documentation". The statement provided with the application dated 12-2-04 does not state a specific heating cost amount

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and only states that utilities are included in the \$150 rent amount. In addition, the statement states that the claimant is living in the home of her parents which caused the caseworker to determine that the claimant did not qualify as a separate household. The second written statement dated 1-4-05 was provided in a pre-hearing conference after the application had been denied and again did not state a specific amount of heating cost. Therefore, the State Hearing Officer must rule that the action to deny the LIEAP application was correct and in compliance with current policy.

## IX. RIGHT OF APPEAL

See Attachment.

## X. ATTACHMENTS

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29.