



**State of West Virginia**  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
**Office of Inspector General**  
**Board of Review**  
**150 Maplewood Avenue**  
**Lewisburg, WV 24901**

**Joe Manchin III**  
**Governor**

**Martha Yeager Walker**  
**Secretary**

April 21, 2006

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

Dear Mr. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 8, 2006. 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 for the Low Income Energy Assistance Program is based on current policy and regulations. Some of these regulations state as follows: 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. 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 who home heating costs are paid for by a third party are considered invulnerable. (Section 26.2 #3 of the West Virginia Income Maintenance Manual)

The information which was submitted at your hearing revealed that you did not have a heating expense at the time you applied for LIEAP.

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,

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

cc: Erika H. Young, Chairman, Board of Review  
Henrietta Martin, DHHR

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

\_\_\_\_\_,

**Claimant,**

**v.**

**Action Number: 05-BOR-7153**

**West Virginia Department of  
Health and Human Resources,**

**Respondent.**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on February 8, 2006 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 February 8, 2006 on a timely appeal, filed December 16, 2005. It should be noted that this hearing was originally scheduled for January 18, 2006. It was rescheduled to February 8, 2006 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 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  
Linda Bailey, Department Hearing Representative

Presiding at the Hearing was Margaret M. Mann, State Hearing Officer and a member of the State Board of Review.

### **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 #3 of the West Virginia Income Maintenance Manual

### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

#### **Department's Exhibits:**

- D-1 Department's Summary
- D-2 Case Comments dated 10/14/05 through 01/25/06
- D-3 Notification Letters dated 12/13/05 & 12/16/05
- D-4 Parts of section 26.3 of the West Virginia Income Maintenance Manual
- D-5 FEFU Findings

#### **Claimants' Exhibits:**

- C-1 Photographs of Trailer

### **VII. FINDINGS OF FACT:**

- 1) The claimant made a LIEAP application for coal on 12/09/05.
- 2) The claimant has no income.
- 3) The claimant had reported on his Medicaid application 10/14/05 as well as his food stamp review on the same date he had no shelter/utility expenses as lived in a camper in his mother's yard. No SUA was given for the food stamps. (D-2)
- 4) A letter dated 12/13/05 was sent to the claimant and reads in part: Low Income Energy Assistance Program (LIEAP). Action: Your application dated 12/09/05 for Home Heating Assistance under the Low Income Energy Assistance Program has been denied. Reason: Requested LIEAP; energy type not used to heat home. (D-3)
- 5) FEFU findings dated 01/23/06. FEFU verified that \_\_\_\_\_ has been living with his sister, \_\_\_\_\_, in her trailer for the last several months – since August, 2005. (D-5)

- 6) Testimony from Mr. \_\_\_\_\_ revealed at the time of the application, he had been using wood for heat. He had been going out in the woods and gathering wood a little bit at a time. He had not bought any coal and that was why he had applied for LIEAP. The claimant provided pictures of the camper. (C-1)
- 7) Testimony from the claimant revealed he only stayed with his sister to help care for her children.
- 8) **Section 26.2 #3 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 who home heating costs are paid for by a third party are considered invulnerable.

#### **VIII. CONCLUSIONS OF LAW:**

- 1) Policy dictates 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.
- 2) Credible testimony from the claimant revealed that he had been gathering wood for heat and he had not purchased any coal.
- 3) The claimant was not receiving a deduction for shelter/utility expenses nor the SUA for food stamps.
- 4) The denial of the LIEAP application was valid.

#### **IX. DECISION:**

It is the finding of the State Hearing Officer that the Department is upheld in the decision to deny the claimant's LIEAP application.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 21st Day of April, 2006.**

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**Margaret M. Mann  
State Hearing Officer**