



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
227 Third St.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

February 22, 2006

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 21, 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: the Low Income Energy Assistance Program is time-limited and dependent on the availability of federal funds (West Virginia Income Maintenance Manual Section 26.1).

Information submitted at your hearing revealed that your LIEAP application, dated December 21, 2005, was received by the local DHHR office on December 22, 2005. The deadline for submission of LIEAP applications was December 9, 2005.

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.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Stephanie Rizzio, ESS, DHHR

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

_____,
Claimant,

v.

Action Number: 05-BOR-7199

**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 22, 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 convened on February 21, 2006 on a timely appeal filed December 28, 2005. It should be noted that the hearing was originally scheduled for February 1, 2006, but was rescheduled at the Claimant's request.

II. PROGRAM PURPOSE:

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

The goal of 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:

_____, Claimant
Stephanie Rizzio, Economic Services Supervisor, DHHR

Presiding at the hearing was Pamela L. Hinzman, 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 Department took the correct action in denying the Claimant's application for the Low Income Energy Assistance Program.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Section 26.1

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual Section 26.1
- D-2 Memorandum regarding LIEAP intake dates and deadline dated September 23, 2005
- D-3 LIEAP application date-stamped December 22, 2005
- D-4 LIEAP denial letter dated December 22, 2005

VII. FINDINGS OF FACT:

- 1) The Claimant's application for the Low Income Energy Assistance Program, dated December 21, 2005 (D-3), was received and date-stamped in the [REDACTED] County DHHR Office on December 22, 2005.
- 2) Ms. Rizzio testified that the application was denied since it was not received by December 9, 2005, the program deadline. The Claimant was advised of the denial in a letter dated December 22, 2005 which included the following information:

Your application for Low Income Energy Assistance (LIEAP) has been denied effective 12/22/05. Here is why: Regular LIEAP intake ended 12/09/05. Any applications that were submitted after 12/09/05 are not eligible for regular LIEAP benefits.

- 3) The Claimant testified that he had not submitted the application prior to the program deadline because he had been ill with influenza.
- 4) West Virginia Income Maintenance Manual Section 26.1 (D-1) states, in part:

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 winter season, but it is designed to partially offset the cost.

The program is time-limited and dependent on the availability of federal funds. It is subject to closure without prior notice when funds are deemed to have been exhausted. Funds are normally disbursed on a first-come, first-served basis, but may also be subject to disbursement based 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.

- 5) A September 23, 2005 memorandum from LIEAP Coordinator Ron Gilmore (D-2) states, in part:

Individuals receiving applications via mass mailing are being asked to have them returned by December 2, 2005, but they may be processed if postmarked by December 9, 2005. Processing of these applications will begin October 15, 2005. General intake is tentatively set to open December 5, 2005 and close on December 9, 2005. All applications must be postmarked by December 9, 2005.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that the LIEAP Program is time-limited and is dependent on the availability of federal funds.
- 2) A Department memorandum of September 23, 2005 states that general LIEAP intake was scheduled to end on December 9, 2005 and that all applications submitted for the LIEAP Program must be postmarked by December 9, 2005.
- 3) The Claimant signed his LIEAP application on December 21, 2005. The application was date-stamped as having been received in the [REDACTED] County DHHR Office on December 22, 2005.
- 4) Policy provides no provision to accept LIEAP applications received after the program deadline as a result of an applicant's illness.
- 5) The Department's decision to deny the Claimant's LIEAP application is correct.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department 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 22nd Day of February, 2006.

**Pamela L. Hinzman
State Hearing Officer**