



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 1736
Romney, WV 26757

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

March 4, 2008

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held on February 29, 2008. Your hearing request was based on the Department of Health and Human Resources' decision to deny your application for Emergency 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 LIEAP Program is based on current policy and regulations. Some of these regulations state as follows: Clients who receive direct payment of Regular LIEAP benefits must verify that the payment was used for home heating by submitting a receipt with the Emergency LIEAP application. Failure to submit this verification may result in denial of Emergency LIEAP. (West Virginia Income Maintenance Manual Chapter 26.2)

Information and documentation provided at your hearing revealed that you did not provide verification that your direct LIEAP payment was used for home heating.

It is the ruling of the State Hearing Officer to **uphold** the decision of the Department to deny your application for Emergency LIEAP.

Sincerely,

Sharon K. Yoho
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Ann Hubbard, DHHR

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

Claimant,

v.

Action Number: 08-BOR-765

**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 29, 2008 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 29, 2008 on a timely appeal filed January 30, 2008.

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 rising costs of home heating which 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
Ann Hubbard, Economic Service Worker, DHHR

Presiding at the hearing was Sharon K. Yoho, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Department was correct in its decision to deny the Claimant's application for Emergency LIEAP benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 26.2 and 26.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Regular LIEAP Application dated December 13, 2007
- D-2 Notice of approval for Regular LIEAP dated January 9, 2008
- D-3 Record of direct payment to claimant for \$211. dated January 15, 2008
- D-4 Emergency LIEAP Application dated January 29, 2008
- D-5 Notice of denial of Emergency LIEAP dated January 30, 2008
- D-6 Application for Emergency LIEAP dated January 31, 2008
- D-6a Receipts for Kerosene dates December 17, 2007 thru January 14, 2008
- D-6b Verification Checklist dated January 31, 2008
- D-7 West Virginia Income Maintenance Manual Policy §26.2

VII. FINDINGS OF FACT:

- 1) The LIEAP program began for the winter season 2007/2008 on December 3, 2008 and is expected to end March 31, 2008. The claimant applied for regular LIEAP on December 13, 2007. His application was approved for the purchase of kerosene in the amount of \$211. A check for \$211. was issued to the claimant as a direct payment to him on January 15, 2008.
- 2) On January 29 the claimant applied for Emergency LIEAP. He was not prepared to verify his use of the direct payment of Regular LIEAP. He reported to the worker that he had used the \$211. to repay others who had previously purchased kerosene for him.
- 3) He returned to the Department on January 31, 2008 and was given a verification checklist that requested he provide a minimum delivery statement and a slip showing he could not obtain the fuel on credit. He provided these items along with six receipts showing that kerosene was purchased on 12/17/07 \$48.00 - 12/28/07 \$51.14 - 12/30/07 \$35.00 - 1/2/08 \$34.25 - 1/3/08 \$70.00 - 1/14/08 \$35.00. He reported these receipts to be for purchases of kerosene made by others for him or by him with borrowed money from others. All of the purchases were made prior to the date that the claimant received his Regular LIEAP payment of \$211. The Department did not include on the verification check list that the claimant was to provide proof that he used his direct payment for fuel. He did however provide the above listed receipts.

- 4) The claimant testified that believes that the above receipts should be verification enough to prove that he spent his \$211. for the purchase of fuel. He did not indicate that he had receipts from the persons he had borrowed fuel money from or that he could or would get such receipts. The Department did not request any verification that he had paid these individuals for fuel previously purchased.
- 5) The denial notice dated January 30, 2008 stated reason for denial was due to the lack of a minimum delivery statement and that he did not use Regular LIEAP payment to pay heat bill. No denial notice was issued following the date of the verification check list or following his providing of the minimum delivery statement with the non credit statement.
- 6) **West Virginia Income Maintenance Manual Chapter 26.2 B. states:**

To qualify for Emergency LIEAP benefits, the applicant must have an emergency home heating need, defined as being without home heating or in immediate danger of being without home heating and being without resources to eliminate the emergency.

B. EMERGENCY LIEAP

Emergency LIEAP is the program component which assists clients in eliminating home heating emergencies.

Eligibility requirements are the same as Regular LIEAP, except for the additional requirement of verifying a heating emergency.

Vulnerability To The Cost Of Home Heating

- b. Verifying Use of Direct Payments - Clients who receive direct payment of Regular LIEAP benefits must verify that the payment was used for home heating by submitting a receipt with the Emergency LIEAP application. Failure to submit this verification of payment for home heating may result in denial of the Emergency LIEAP application unless verification can be otherwise obtained by the Worker.

NOTE: Receipts for the purchase of bulk fuel must be dated prior to the date of application for Emergency LIEAP. The Worker must consider the date of the receipts(s) when determining if an emergency exists.

- 7) **West Virginia Income Maintenance Manual Chapter 26.3 C states:**

Verification is the process of documenting statements and information provided by the applicant. Although specific guidelines for verifying certain eligibility criteria are indicated below, the Worker may request verification of any information

provided by the applicant in determining eligibility for LIEAP benefits.

The Worker must decide when and what information must be verified or when additional information must be obtained, particularly when information provided by the applicant is questionable or more information is needed to complete the eligibility determination or payment process.

- 8) West Virginia Income Maintenance Manual Chapter 26.3 B - 2 states:

Vulnerability

Bulk fuel users must submit a signed and dated bill from the bulk fuel vendor which indicates that a delivery was or will be made.

The Worker must obtain written verification of all other arrangements not referred to above. Statements must be dated and signed.

Otherwise, the decision to verify vulnerability is at the Worker's discretion.

VIII. CONCLUSIONS OF LAW:

- 1) The claimant did not provide verification to support that he used the Regular LIEAP payment for home heating. Receipts for kerosene purchased prior to the issue date of the LIEAP check do not prove that his direct LIEAP payment was used for home heating.
- 2) Evidence and testimony strongly indicates that the claimant was not asked to provide verification that he paid others for fuel that they purchased for him. Policy states that the client is to verify that the payment was used for home heating by submitting a receipt with the Emergency LIEAP application. This policy is policy provided under the heading of Vulnerability to the Cost of Home Heating. Policy indicates that one of the purposes for needing this verification is to determine vulnerability and if an emergency exists in the use of bulk fuel. The NOTE: in policy 26.2 b. provides that the receipt must be for a date prior to the emergency assistance date. This is so the worker can calculate the approximate time that the last purchased fuel should have last.
- 3) Policy 26.3 B 2. provides that when a bulk fuel user is not able to provide verification from a bulk fuel vendor that the Worker must obtain written verification of all other arrangements not referred to above. It also states that statements must be dated and signed. Testimony and evidence supports that the worker did not specifically request written statements by the individuals who purchased fuel for the claimant. The claimant did not indicate any willingness to provide such statements. He instead stated that the receipts that he provided should be all that is needed.

- 4) Policy 26.3 C provides that when information given by the applicant is questionable that the worker should request additional verification to complete the eligibility process. Detailed written statements by the individuals who the claimant repaid for fuel previously purchased could have been used. These statements including pertinent dates would prove that he did use his Regular LIEAP payment for the purchase of fuel and also prove vulnerability. Policy does not prohibit the Department from accepting such written statements to prove that regular LIEAP was used for fuel. LIEAP applicants routinely use their LIEAP payments to repay Utility companies who have previously provided fuel which has already been used.
- 5) The Department did not have the verification needed to approve the Emergency LIEAP application dated in January 2008. Had the claimant provided the statements that would prove that he repaid others for the fuel purchased on the receipts provided, and that they were repaid after which time he received his direct payment of Regular LIEAP, the Department could have approved the application. The program Emergency LIEAP is expected to continue through the month of March and any future application made by this claimant should include the detailed statements described above to prove that he used his Regular LIEAP to pay for previously purchased fuel.

IX. DECISION:

It is the ruling of the State Hearing Officer to **uphold** the Department's decision to deny the Emergency LIEAP application of January 2008.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 4th Day of March, 2008.

**Sharon K. Yoho
State Hearing Officer**