



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

January 12, 2009

Dear _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 16, 2008. Your hearing request was based on the Department of Health and Human Resources' decision to deny your application for the Low Income Energy Assistance Program (LIEAP) based on excessive income.

In arriving at a decision, the State Hearings 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 is based on current policy and regulations. Some of these regulations state as follows: The total monthly gross income of the Assistance Group must not be more than the maximum allowable gross income amounts as found in policy. No deductions or disregards apply except in the determination of gross profit of self-employment. This deduction is 20% from gross sales or receipts (West Virginia Income Maintenance Manual § 26.2).

The information submitted at your hearing revealed that your income exceeded the allowable limits for the LIEAP program.

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

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

Cc: Erika H. Young, Chairman, Board of Review
Eric Acord, Economic Service Supervisor

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

_____,

Claimant,

v.

Action Number: 08-BOR-2421

**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 December 16, 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 December 16, 2008 on a timely appeal, filed January 17, 2008.

II. PROGRAM PURPOSE:

The Program entitled 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 the Low Income Energy Assistance Program (**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
Eric Acord, Economic Service Supervisor

Presiding at the Hearing was Kristi Logan, 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 or not the Department correctly denied Claimant's LIEAP application.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 26.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Denial Notification Letter dated January 14, 2008
- D-2 LIEAP Income Eligibility Screen (ELRI) from Rapids Computer System
- D-3 Self Employment Income Screen (AFSE) from Rapids Computer System for [REDACTED] Floral
- D-4 2007 Tax Returns
- D-5 Self Employment Income Screen (AFSE) from Rapids Computer System for Voters' Registration
- D-6 Self Employment Income Screen (AFSE) from Rapids Computer System for Rental Income
- D-7 Employment Income Screen (AFEI) from Rapids Computer System for [REDACTED] Floral
- D-8 Detailed Earned Income Screen (AFDE) from Rapids Computer System
- D-9 2006 Wage and Tax Statement (W-2) for [REDACTED] Floral
- D-10 LIEAP Application dated December 14, 2007
- D-11 Case Comments (CMCC) from Rapids Computer System
- D-12 West Virginia Income Maintenance Manual § 26.2
- D-13 Department's Case Summary

Claimants' Exhibits:

- C-1 2007 Tax Returns

VII. FINDINGS OF FACT:

- 1) Claimant applied for the Low Income Energy Assistance Program (LEIAP) on December 14, 2007. A denial notification letter dated January 14, 2008 was issued and read in part (D-1):

Your application dated 12/14/07 for Home Heating Assistance under the LIEAP program has been denied.

Income is more than the gross income limit for you to receive benefits.

Claimant's earned and self-employment income was calculated as \$5,014 monthly (D-2). The income limit for LIEAP for the 2007-2008 heating season was \$1,127.

- 2) Claimant testified that he had ownership interest in [REDACTED] Floral and also received regular paychecks while working there. Claimant stated he received \$3,550 yearly from rental income, \$300 yearly from working Voters' Registration, and was paid \$10,712 in 2007 from Dias Floral (D-3, D-5, D-6, D-7, D-8 and D-9). Claimant was contesting the amount of income used to determine his profit from [REDACTED] Floral. According to his tax returns, Claimant actually took a loss in 2006 and 2007 from the business (D-4 and C-1). Claimant felt like his 2007 tax returns instead of his 2006 tax returns should have been used to determine his eligibility for LIEAP.
- 3) West Virginia Income Maintenance Manual § 26.2 A(1) a-b states:

Income

The total monthly gross income of the assistance group (AG) must not be more than the maximum allowable gross income amounts in the chart in Chapter 10, Appendix A. No income deductions or disregards apply except in the determination of gross profit for self-employment. When the gross monthly income of the AG exceeds the maximum allowable income amounts, the group is ineligible for LIEAP and the application is denied.

Determining the Month Income is Counted

Income received or expected to be received during the month of application is used to determine eligibility.

All sources of income are considered in determining income eligibility.

- Self-employed individuals are entitled to a 20% deduction from gross sales or receipts to determine monthly gross income.

- 4) West Virginia Income Maintenance Manual Chapter 10 Appendix A states:

Gross income limit for 1 in the AG (2007-2008 heating season): \$1127

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that all sources of income are considered in determining eligibility for the LIEAP program. The only allowable deduction from gross income is a 20% deduction from self-employment.
- 2) Claimant's gross profit from [REDACTED] Floral was \$59,503.47 according to his 2006 income tax returns, Schedule C (D-4). Claimant's net income, after the 20% self-employment income deduction from [REDACTED] Floral was \$47,602.78, converted to \$3,966.90 monthly. This income alone exceeds the allowable limit for LIEAP.

- 3) Claimant's gross profit from [REDACTED] Floral for 2007 was \$36,190.03 (C-1). His net income is calculated as \$28,952.02 converted to \$2,412.67 monthly. Claimant had excessive income for the LIEAP program as determined from his 2007 tax returns as well.
- 4) Although Claimant did take a loss from his business, he was given all allowable deductions from his gross income that policy allows. The Department correctly denied Claimant's December 2007 LIEAP application.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to deny 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

ENTERED this 12th Day of January, 2009.

Kristi Logan
State Hearing Officer