



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 2590
Fairmont, WV 26555

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

January 8, 2009

Dear _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 6, 2009. 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).

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 that eligibility for Regular LIEAP is based on a number of factors, including income, AG (assistance group) size, vulnerability to the cost of home heating, residence and citizenship. An AG is determined vulnerable to the cost of heating a home if they 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. Invulnerability means the AG has no home heating costs or is not responsible for payment of the heating cost – this includes individuals whose home heating costs are paid by a third party. (West Virginia Income Maintenance Manual Chapter 26.2)

Information provided at your hearing reveals that your mother, a third party, pays your heating cost directly to Allegheny Power (the service provider). As a result, you are invulnerable to the cost of home heating and therefore ineligible to receive LIEAP assistance.

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

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Debra Nestor, ESS, DHHR

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

_____,

Claimant,

v.

Action Number: 08-BOR-2498

**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 January 8, 2009 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 January 6, 2009 on a timely appeal filed November 25, 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
Debra Nestor, ESS, DHHR

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

All parties participated telephonically.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether or not the Department was correct in its decision to deny the Claimant's LIEAP application based on a lack of vulnerability.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 26.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Case Comments for period 7/2/08 through 12/19/08
- D-2 LIEAP Application completed on 10/29/08
- D-3 Verification Checklist - request for verification of zero income – dated 12/19/08.
- D-3a Zero Income/Home Heating Cost Verification form accompanied by correspondence from _____ dated January 5, 2009
- D-4 WVIMM Chapter 26.2
- D-5 Notice of Decision dated 11/21/08

VII. FINDINGS OF FACT:

- 1) On October 29, 2008, the Claimant completed an internet application for Low Income Energy Assistance Program (LIEAP) benefits. Exhibit D-2 reveals that the Claimant reported she has zero household income and that her main heating source is provided by Allegheny Power.
- 2) The Department submitted Exhibit D-1 (Case Comments) to show that while attending a Food Stamp and Medicaid review on September 9, 2008, the Claimant reported that her mother is paying all of her shelter / utility costs for her, and that her mother makes these payments directly to the companies. On November 12, 2008 the Claimant was at the Department for a Medical Review Team reevaluation and reported that there was no change in her financial arrangement. Exhibit D-3 and D-3a further confirm that the Claimant has zero income and that her mother pays her shelter / utility costs directly to the billing companies.
- 3) On November 21, 2008, the Department notified the Claimant via a Notice of Decision (D-5) indicating that her application for LIEAP benefits was denied.
- 4) As a matter of record, the Claimant acknowledged that her mother pays her electric bill directly to Allegheny Power, however, she is going to have to pay her mother back for all of the financial assistance she has received when she get her Social Security Disability.

- 5) West Virginia Income Maintenance Manual Chapter 26.2, 3a (D-7), states:

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 cost for the home in which they reside. This cost must be paid directly to the 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.

Vulnerability also exists when the AG must pay at least a part of the cost of home heating, whether they pay just part of the cost each month or alternate payments with a third party.

- 6) West Virginia Income Maintenance Manual Chapter 26.2, 3b states:

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 whose home heating costs are paid by a third party are considered invulnerable.

VIII. CONCLUSIONS OF LAW:

- 1) Policy specifies that in order to qualify for LIEAP assistance, a household must be determined vulnerable or partially vulnerable to the cost of home heating. Vulnerable households are those which must pay the heating cost for the home in which they reside. Vulnerability also exists when the Assistance Group must pay at least a part of the cost of home heating, whether they pay just part of the cost each month or alternate payments with a third party.
- 2) In addition, policy states that invulnerability occurs when the Assistance Group has no home heating costs or is not responsible for payment of the heating cost. Those whose home heating costs are paid by a third party are considered invulnerable.
- 3) The undisputed evidence reveals that the Claimant's mother, a third party, pays the Claimant's heating bill directly to Allegheny Power. While the Claimant indicated she intends to repay her mother, policy identifies this arrangement as a third party payer source as there is no legally binding financial obligation. Based on the evidence, the Claimant is not vulnerable to heating cost, and therefore, ineligible to receive LIEAP benefits.

IX. DECISION:

It is the ruling of the State Hearing Officer to **uphold** the Department's 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 8th Day of January, 2009.

Thomas E. Arnett
State Hearing Officer