



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

February 27, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 12, 2009. 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 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. This policy goes on to say that 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. Failure or refusal on the part of the applicant to obtain verification when required or requested by the Worker will result in a denial of the application (West Virginia Income Maintenance Manual Chapter 26.3).

Information provided at your hearing reveals that you failed to provide required verifications within the time required by the Department.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your application LIEAP benefits.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Lori McClung, ESW, DHHR

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

-----,

Claimant,

v.

Action Number: 09-BOR-554

**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 27, 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 February 12, 2009 on a timely appeal filed January 20, 2009.

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
Lori McClung, ESW, DHHR

Presiding at the hearing was Thomas E. Arnett, 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 was correct in its decision to deny the Claimant's LIEAP application based on her failure to provide requested verification(s).

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 26.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Departmental [Hearing] Summary
- D-2 Department request for verification / copy of Claimant's electric bill – dated 11/25/08
- D-3 Claimant's Application for Low Income Energy Assistance Program (LIEAP) – Received 11/17/08
- D-4 Verification of the Claimant Social Security Income
- D-5 Handwritten correspondence from _____, D.D.S. – Received 11/17/08
- D-6 Verification of the Claimant's Supplemental Security Income (SSI)
- D-7 Notice of Decision dated 12/11/08
- D-8 Allegheny Power electric bill for September, October and November 2008 – Received on December 19, 2008
- D-9 West Virginia Income Maintenance Manual (WVIMM), Chapter 26.3

VII. FINDINGS OF FACT:

- 1) On November 17, 2009, the Claimant submitted an application to the Department of Health and Human Resources, hereinafter Department) for benefits through the Low Income Energy Assistance Program (LIEAP). Exhibits D-3, D-4, D-5 and D-6 were submitted at the time of application.
- 2) On or about November 25, 2008, the Department notified the Claimant (D-2) that she needed to provide a copy of her electric bill. This notice goes on to state – "If this information is not made available to this office by 12/9/08 your application will be denied."
- 3) On December 11, 2008, the Claimant was notified via a Notice of Decision (D-7) that her application for benefits through the LIEAP program were denied as the Claimant failed to provide her PSC-regulated utility account number (verification of electric bill).

4) The Claimant contends that she provided verification of her electric bill and that she did not receive a denial notice subsequent to submitting the required information. The Department acknowledged that verification of the Claimant's electric bill (D-8) was received on December 19, 2008 but indicated that it was not received on or before the December 9, 2008 deadline and the denial notice (D-7) was issued on December 11, 2008. Because the application was no longer pending and the Claimant had already been notified of denial, no additional denial notices were sent

5) West Virginia Income Maintenance Manual Chapter 26.2, 3a, 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 26.3.B.4 states that if verification is required, the instructions outlined in item C below must be followed. A copy of the heating bill must be attached to the application.

7) West Virginia Income Maintenance Manual Chapter 26.3, 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 responsibility of the applicant in the eligibility determination process includes the effort to obtain required verifications. However, if the applicant is unsuccessful in his attempt to obtain the verification or if he has physical or mental impairments which limit his ability to perform this responsibility and he has no family members or other persons who will help him, the Worker will obtain the verification.

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.

Failure or refusal on the part of the applicant to obtain verification when required or requested by the Worker as outlined in the instructions below will result in a denial of the application.

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. Policy goes on to state that a copy of the heating bill must be attached to the application. If more information is needed to complete the eligibility determination, the Department can request that additional verifications be provided. Failure or refusal on the part of the applicant to obtain verification when required or requested by the worker will result in a denial of the application.
- 2) The evidence reveals that upon review of the Claimant's November 17, 2008 application for LIEAP benefits, a request for verification was issued by the Department on November 25, 2008 in order to complete an eligibility determination. The November 25, 2008 request for verification clearly advises the Claimant that she must provide a copy of her electric bill by December 9, 2008 or her application will be denied. A copy of the Claimant's electric bill was not received timely (Received 12/19/08) and the notice of denial was correctly issued on December 11, 2008.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying the Claimant November 17, 2008 application for LIEAP benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 27th Day of February, 2009.

Thomas E. Arnett
State Hearing Officer