



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

Earl Ray Tomblin
Governor

Michael J. Lewis, M.D. Ph.D
Cabinet Secretary

December 29, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 4, 2010. Your hearing request was based on the Department of Health and Human Resources' decision to deny your application for Low Income Energy Assistance due to excessive income.

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 (LIEAP) is based on current policy and regulations. Some of these regulations state that a 20% deduction is applied to self-employment income (WV Income Maintenance Manual § 26.2 A).

The information submitted at your hearing revealed that your countable gross income, after all allowable deductions is excessive for LIEAP.

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to deny your application for LIEAP due to excessive income.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

Cc: Erika H. Young, Chairman, Board of Review
Michelle Jones, Economic Service Worker

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

-----,

Claimant,

v.

Action Number: 10-BOR-2006

**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 November 4, 2010 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.

II. PROGRAM PURPOSE:

The Program entitled Low Income Energy Assistance Program (LIEAP) 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
Michelle Jones, Economic Service Worker

Presiding at the Hearing was Kristi Logan, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not Claimant's application for LIEAP was correctly denied due to excessive income.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 26.2 and Chapter 10 Appendix A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Department Summary
- D-2 Hearing Request received September 28, 2010
- D-3 Hearing Appointment Letter
- D-4 Hearing/Grievance Record Information
- D-5 Pre-Authorization Notice for Automatic LIEAP
- D-6 2008 Federal Income Tax Return
- D-7 Verification Request Letter dated October 29, 2010 and 2009 Request for Tax Extension
- D-8 Denial Notification Letter dated September 11, 2010
- D-9 WV Income Maintenance Manual § 26.2
- D-10 2009 Federal Income Tax Return

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) Claimant was automatically evaluated for the Low Income Energy Assistance Program (LIEAP) in September 2010. A denial notification letter was issued by the Department which read in pertinent parts (D-8):

On 9/10/10, you were considered for an automatic Home Heating Assistance payment under the Low Income Energy Assistance Program (LIEAP) and have been denied.

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

- 2) Michelle Jones, Economic Service Worker, testified that Claimant completed a Supplemental Nutrition Assistance Program (SNAP) review in April 2010. Claimant's self-employment income was derived from his 2008 Federal Income Tax Return (D-6). Ms. Jones stated Claimant had reported at his SNAP review that he had not filed his

2009 tax returns and had requested an extension. Ms. Jones stated the income from Claimant's 2008 Federal Income Tax Return was used to determine his eligibility for LIEAP (D-7). Ms. Jones testified that the income deductions are different for the SNAP program than for the LIEAP program and Claimant's income was excessive for him to qualify for LIEAP.

- 3) Claimant testified that he received LIEAP in 2009 and his self-employment income has remained the same. Claimant stated he has had his business for several years and would have submitted his 2008 tax returns as income verification when he applied for LIEAP the previous year. Claimant stated he did not understand why he was approved last year and was denied this year. Claimant provided a copy of his 2009 tax return (D-10).
- 4) WV Income Maintenance Manual § 26.2 A and A(1)c states:

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.

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

- 5) WV Income Maintenance Manual Chapter 10 Appendix A states:

Income limit for 1 in the AG [for LIEAP]: \$1,174

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that self-employment income is allowed to a 20% deduction from the gross receipts or sales to determine eligibility for LIEAP.
- 2) Claimant's gross sales as reported on his 2008 Federal Income Tax Return was \$98,836. The 20% self-employment deduction is applied to this amount for a total of countable income of \$79,068 yearly. Claimant's income is converted to a monthly amount of \$6,589. Claimant's income exceeds the allowable limit of \$1,174 to be eligible for LIEAP.
- 3) Claimant's LIEAP application was correctly denied due to excessive income.

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 29th day of December 2010.

**Kristi Logan
State Hearing Officer
Member, Board of Review**