



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

April 15, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 7, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to deny your Emergency Low Income Energy Assistance Program (LIEAP) application.

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 LIEAP is based on current policy and regulations. These regulations provide that individuals whose home heating cost is paid for by someone not residing in their home are ineligible for LIEAP (WV Income Maintenance Manual § 26.2 A).

The information submitted at your hearing revealed that your mother, who does not reside in your home, pays your heating cost of electricity making you invulnerable and ineligible for LIEAP.

It is the decision of the State Hearings Officer to **Uphold** the action of the Department to deny your Emergency LIEAP application.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Phyllis Billings, Economic Service Supervisor

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

-----,

Claimant,

v.

Action Number: 11-BOR-762

**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 April 7, 2011 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 is 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

-----, Witness for Claimant

Phyllis Billings, Economic Service Supervisor

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

This hearing was held by videoconference.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department's decision to deny Claimant's Emergency LIEAP application was correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 26.2 A(2)f

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing/Grievance Request Notification
- D-2 Hearing Request received March 3, 2011
- D-3 Denial Notification Letter dated February 25, 2011
- D-4 LIEAP Application dated February 24, 2011 and Statement from -----
- D-5 WV Income Maintenance Manual § 26.2 C and 26.3
- D-6 Department's Summary

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) Claimant applied for Emergency LIEAP on February 24, 2011 for a termination on his electric bill. A denial notification letter was issued by the Department on February 25, 2011 which read in pertinent part (D-3):

Your application dated 2/24/11 for Home Heating Assistance under the Emergency Low Income Energy Assistance Program has been denied. Did not indicate the existence of an emergency.

- 2) Phyllis Billings, Economic Service Supervisor, testified that on Claimant's Emergency LIEAP application, he indicated that he did not pay for his home heating cost and that it was his mother, -----, who paid the bill. The application also stated that Claimant's electric bill was in his mother's name (D-4).

Ms. Billings stated Claimant's caseworker questioned Claimant during the interview several times about his situation. Claimant reported that he had had no income for two (2) years now and that his mother, who lived across the street from him, had been paying his electric bill for him. Ms. Billings stated that Claimant is not eligible for LIEAP since he is not responsible for paying his own heating source.

- 3) Claimant testified that he has not worked in the past two (2) years and has had no income since that time. Claimant stated his mother or friends pay his electric bill for him, but that he is responsible for the bill.

4) -----, Claimant's mother, testified that she is not responsible for the electric bill because she does not live in Claimant's home. -----stated she helps Claimant with his bills occasionally. -----stated Claimant's electric bill is in her name as Claimant is unable to have the account in his name.

5) WV Income Maintenance Manual § 26.2 A(2)f states:

When zero income applicants report that their home heating costs are being paid by someone else, vulnerability can be determined by the manner in which the heating costs are being paid. Applicants who report zero income but have someone else not living in the household who makes payment for the entire cost of home heating to the vendor on behalf of the applicant are considered invulnerable and therefore ineligible for LIEAP benefits.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that an individual must be vulnerable in order to qualify for LIEAP.
- 2) Claimant has no income and his heating cost of electricity is paid in its entirety by his mother who does not reside in his home. Claimant does not meet the vulnerability requirement to be eligible for LIEAP.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to deny Claimant's application for Emergency LIEAP.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 15th day of April 2011

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