



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
Post Office Box 1736
Romney, WV 26757**

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

May 25, 2007

Dear Mr. & Mrs. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 23, 2007. Your hearing request was based on the Department of Health and Human Resources' decision to deny you Emergency Assistance for Electricity.

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 Emergency Assistance program is based on current policy and regulations. Some of these regulations state as follows: Emergency financial assistance income limits for a 5 person Assistance Group is \$819.

The information, which was submitted at your hearing, revealed that your monthly income exceeds the income limit.

It is the decision of the State Hearings Officer to uphold the actions of the Department to deny your application for Emergency Assistance.

Sincerely,

Sharon K. Yoho
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Hubbard, DHHR

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

_____,
Claimant,

v.

Action Number: 07-BOR-1427

**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 May 23, 2007 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 May 23, on a timely appeal, filed May 18, 2007.

II. PROGRAM PURPOSE:

The Program entitled Emergency Assistance is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

Emergency Assistance is used to assist individuals and families in meeting a financial crisis when they are without available resources. The program is designed to provide short-term emergency financial assistance with which eligible individuals and families may obtain certain items or services needed to eliminate an emergency or crisis.

III. PARTICIPANTS:

_____, claimant

_____, co-claimant

Ann Hubbard, Income Maintenance Supervisor

Presiding at the Hearing was Sharon K. Yoho, 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 the agency was correct in their denial of Emergency Assistance.

V. APPLICABLE POLICY:

WV Income Maintenance Manual §19.2
WV Income Maintenance Manual §19 Appendix A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Listing of household members
D-2 Detailed Earned income for April 2007
D-3 WV Income Maintenance Manual policy § 19 Appendix A
D-4 Notice of denial dated May 11, 2007
D-5 WV Income Maintenance Manual policy § 19.2

VII. FINDINGS OF FACT:

- 1) The Claimant applied for Emergency Assistance in the [REDACTED] County DHHR office on May 10, 2007 for Electricity.
- 2) The Claimant provided her husband's April pay stubs. The gross pay totaled \$2,809.78. Her husband is employed with [REDACTED] and his employment was expected to continue.
- 3) The caseworker processed the application and applied the gross income to the Emergency Assistance income chart (Exhibit D-3). The caseworker made the determination that the \$2,809.78 exceeded the Monthly Income Limit for a 5-person household.
- 4) The worker denied the application and provided a denial letter (Exhibit D-4) stating that, "Income is more than the gross income limit for you to receive benefits."
- 5) The Claimant's expressed concerns regarding their inability to meet their financial obligations in the area of [REDACTED] where the cost of living is high. They voiced objections to the Department's use of gross income instead of the net available income.
- 6) WV Income Maintenance Manual Policy §19 Appendix A:
Number of Persons in the Assistance Group Monthly Income Limit
5 \$819.

- 7) WV Income Maintenance Manual Policy §19.2 5a., Emergency Assistance states:

Income Policy:

The Worker must determine availability of income to the applicant and all other members of the AG. All countable gross income received by any member of the AG beginning with date of application and ending 29 days later must be counted in determining eligibility for Emergency Assistance.

VIII. CONCLUSIONS OF LAW:

- 1) Policy in Chapter 19.2 is clear that gross income must be counted when determining eligibility for Emergency Assistance. Appendix A lists \$819. as the Monthly Income Limit for an Assistance Group of 5.
- 2) Evidence is clear that the gross household income exceeds the Income Limit for Emergency Assistance.

IX. DECISION:

It is the decision of this hearing officer that the Agency was correct to deny the application for Emergency Assistance due to income exceeding the Limit allowed. The action by the agency to deny benefits is **upheld**.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 25th Day of May 2007.

Sharon K. Yoho
State Hearing Officer